

PUBLICATION UPDATE

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Ohio Jury Instructions— Criminal

Publication 4346

Release 22S2

September 2022

HIGHLIGHTS

This release includes revisions to the following:

- User's Guide
- Chapter CV 303 — Standards of Proof
- Chapter CV 315 — Damages
- Chapter CV 425 — Governmental Liability
- Chapter CV 455 — Civil Relief for Criminal Conduct
- Chapter CV 501 — Contracts
- Chapter CV 533 — Discrimination
- Chapter CR 509 — Arson and Related Offenses
- Chapter CR 513 — Theft and Fraud
- Chapter CR 521 — Offenses Against Justice and Public Administration

• Chapter CR 525 — Drugs

Chapter CV 303 adds new instruction on self-defense, defense of another, defense of residence in tort actions.

Chapter CV 315 replaces one instruction on personal injury: tort actions.

Chapter CV 425 includes one revised instruction on negligence in proprietary functions R.C. 2744.02(B)(2), one revised instruction on maintenance of roads and bridges R.C. 2744.02(B)(3), and one revised instruction on negligence within government buildings or grounds R.C. 2744.02(B)(4).

Chapter CV 455 replaces one instruction on civil remedy for person injured by criminal act.

Chapter CV 501 replaced in its entirety to include one new instruc-

tion on each of the following: breach of contract, contract formation, offer and acceptance, contract interpretation, modification of contract, affirmative defense: mutual mistake of fact, affirmative defense: unilateral mistake of fact, affirmative defense: frustration of purpose, affirmative defense: impracticability, affirmative defense: impracticability due to government action, affirmative defense: prevention of performance, affirmative defense: payment (satisfaction), affirmative defense: accord and satisfaction, affirmative defense: waiver, affirmative defense: duress, promissory estoppel, expectation damages, reliance damages, rescission and restitution, and quantum meruit: mistake/implied in fact contract.

Chapter CV 533 replaced in its entirety to include one new instruction on each of the following: general, disparate treatment claim—indirect evidence, disparate treatment claim—some direct evidence, disparate (adverse) impact claim, disability discrimination, reasonable accommodation, sexual harassment - loss of tangible job benefit, sexual harassment - hostile work environment, retaliation, constructive discharge, and damages in discrimination cases.

Chapter CR 509 includes one revised instruction on soliciting or providing support for terrorism R.C. 2909.22 and one revised instruction on money laundering in support of terrorism R.C. 2909.29.

Chapter CR 513 adds one new instruction on counterfeiting R.C. 2913.30, one new instruction on ille-

gally transmitting multiple commercial electronic mail messages (spamming) R.C. 2913.421(B), and one new instruction on unauthorized access of computer R.C. 2913.421(D).

Chapter CR 521 replaces one instruction on soliciting improper compensation (coerced contributions) R.C. 2921.43(C), one instruction on dereliction of duty (public servant) R.C. 2921.44(E), one instruction on impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) R.C. 2921.51(B), one instruction on impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) in connection with a/an (arrest) (detention) (search) R.C. 2921.51(C), one instruction on impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) to commit or facilitate an offense R.C. 2921.51(D), and one instruction on impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) while committing a felony R.C. 2921.51(E).

Chapter CR 525 includes one revised instruction on illegal process-

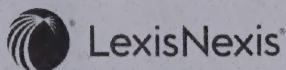
ing of drug documents and adds one of drug documents R.C. 2925.23.
new instruction on illegal processing

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Ohio Jury Instructions— Criminal

Publication 4346

Release 22S2CRI

September 2022

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USER'S GUIDE to *Ohio Jury Instructions* [Rev. 3/12/22]

- **What is *Ohio Jury Instructions*?** *Ohio Jury Instructions* (“*OJI*”) is a collection of non-binding model instructions prepared by the Ohio Judicial Conference’s Ohio Jury Instructions Committee. Although often cited with approval by courts, including the Supreme Court of Ohio, *OJI* is not considered binding. The template instructions set forth in *OJI* are primarily intended for use by judges in instructing juries in the state and federal courts of Ohio when Ohio law is involved in a case. Practitioners can utilize *OJI* to submit requested jury charges.

- **Mission Statement.** *OJI*’s mission is to provide neutral template instructions that are understandable and provide jurors with the law and procedure necessary to enable them to reach fair and just verdicts.

- **Organization.** Published in both electronic and print form, *OJI* is divided into two volumes, one for civil and one for criminal. The civil volume consists of one book, while the criminal volume consists of two books. Each volume is further divided into *titles*, with each title indicating a broad category of related content. Each title is then separated into *chapters* that focus on a more narrow set of related content. Each chapter contains individually numbered *instructions* that set forth specific jury charges on a particular topic.

- **Examples of Titles:**

Title 3: General Civil Trial Instructions

Title 4: Civil Subject Matter Instructions: Tort-Related

Title 5: Civil Subject Matter Instructions: Contract-Related

- **Examples of Chapters within Title 4:**

Chapter CV 401 Negligence

Chapter CV 403 Comparative Negligence

[chapter designations continue until]

Chapter CV 453 Tortious Interference with Economic Relations

- **Examples of Instructions within Chapter CV 453:**

CV 453.01 Tortious interference with business relations

CV 453.03 Tortious interference with contractual relations

CV 453.05 Tortious interference with employment relations

- **Finding an instruction by topic.** Each volume of *OJI* contains a table of contents prepared by the Ohio Jury Instructions Committee and an index prepared by the print publisher. In the criminal volume, instructions are grouped by topics that generally

mirror the criminal statutory scheme set forth in the Ohio Revised Code. In the civil volume, instructions are grouped by topics into titles that are generally related by legal concepts or themes. For example, the chapters in Title 5 all deal with contract-related topics. Within titles, narrower topics generally follow broader topics in the same related area. For example, “Contracts” is the first chapter in Title 5 and is followed by such chapters as the “Uniform Commercial Code” and the “Consumer Sales Practices Act.”

• **Headings.** Each numbered instruction in *OJI* has a descriptive title. Within that titled instruction, there are often multiple instructions, or sections, many of which include descriptive titles, as well as possible sub-sections with their own headings.

• **Example of title of civil instruction:**

CV 417.01 Standard of care: physician/surgeon

• **Example of title of civil section heading:**

CV 417.01 Standard of care: physician/surgeon, § 1. INTRODUCTION.

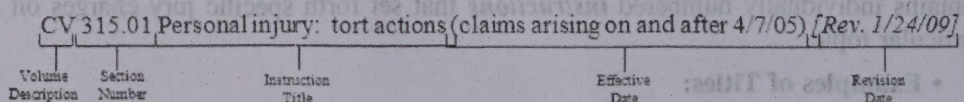
• **Example of title of criminal instruction:**

CR 521.31 Obstructing official business R.C. 2921.31

• **Example of title of criminal section heading:**

CR 521.31 Obstructing official business R.C. 2921.31, § 2. PRIVILEGE.

• **Instruction heading diagram.** The descriptive title of each instruction is comprised of several important pieces of information. A diagram of an example instruction heading and descriptions of the head pieces includes:



• **Volume description.** Two letters will indicate whether an instruction is included in the civil (CV) or criminal (CR) volume of *OJI*.

• **Section number.** The first three digits of the section number indicate the chapter in which the instruction is located. The digits following the decimal point indicate where in the chapter the instruction is located. Criminal instructions generally mirror the criminal statutory scheme set forth in the Ohio Revised Code.

• **Instruction title.** Each numbered instruction in *OJI* has a descriptive title.

• **Effective date.** Users should note that there are often multiple versions of an instruction corresponding to select dates of applicability. These multiple versions are arranged chronologically by *effective date*. For example, amendments to or judicial interpretation of a criminal statute may necessitate different versions of an instruction explaining different elements or definitions. The *effective date* of an instruction is indicated in a parenthetical accompanying its title.

- When a **significant substantive change** has occurred, such as a change in the elements of a crime, there will be a separate instruction covering the time period involved, which will result in *multiple instructions* separated by their distinct effective dates.

- **Example:**

CR 503.02 Murder R.C. 2903.02 (offenses committed on and after 9/6/96 but before 6/30/98) and CR 503.02 Murder R.C. 2903.02 (offenses committed on and after 6/30/98) [Rev. 2/24/07]

- When a **minor change** has occurred, the change will be reflected *within* the text of *one* instruction, with a parenthetical indication of the effective date of the change.

- **Example:**

CV 451.19 Affirmative defenses, § 4. UNFORSEEABLE USE OF PRODUCT (Common law claims only arising before 4/7/05).

- **Revision date.** More recent instruction titles are followed by an italicized and bracketed indication of when the Ohio Jury Instructions Committee last drafted or revised that instruction. Users are cautioned that instructions can quickly become outdated due to changes in statutes and case law. Additional research to validate whether any given instruction is up to date is recommended.

- **Example:**

CV 453.01 Tortious interference with business relations [Rev. 2/23/08]

- **Use of (ADDITIONAL).** Section headings may be accompanied by the parenthetical characterization “ADDITIONAL.” The use of “(ADDITIONAL)” means that the trial judge *should* read and submit the instruction to the jury only when it is applicable or required based on the specific circumstances or facts of the case involved.

- **Example:**

CV 517.07 Collateral in possession of secured party R.C. 1309.27 [UCC § 9-207] [Rev. 2/24/07], § 3. FUNGIBLE (ADDITIONAL).

- **Use of (OPTIONAL).** Section headings may be accompanied by the parenthetical characterization “OPTIONAL.” “OPTIONAL” instructions may be used to further define or amplify an existing instruction. The use of “(OPTIONAL)” means that the trial judge *may* read and submit the instruction to the jury when it is applicable based on the specific circumstances or facts of the case involved. Inclusion of an “OPTIONAL” instruction is at the discretion of the trial judge.

- **Example:**

CV 417.01 Standards of care: physician/surgeon [Rev. 3/28/09], § 7. FREEDOM FROM NEGLIGENCE (OPTIONAL).

- **Sections within instruction.** Each instruction in OJI is usually broken into numbered sections, which can be further broken into lettered subsections. Often this will track statutory numbering and lettering. For example, subsections in a criminal instruction may include (A), (B), and (D)—skipping (C) if the statutory (C) does not constitute an offense. Definitional sections always follow the order in which the terms were first used in the body of the preceding instruction.

- **Need to fill in blanks.** Within a section of an instruction, there may be places where a blank exists. Users must fill in the blanks with the applicable information arising from the circumstances and facts of the case involved.

- **Example:**

CV 425.03 Negligence in proprietary functions, § 1(B). IDENTIFYING A PROPRIETARY FUNCTION. The decision whether a particular activity relates to a proprietary function is a matter of law for the court. I instruct you that _____ is a proprietary function (and that _____ is not a proprietary function).

- **Example of actual instruction given to jury:**

The decision whether a particular activity relates to a proprietary function is a matter of law for the court. I instruct you that selling used computers is a proprietary function and that awarding contracts for the construction of roads is not a proprietary function.

- **Parenthetical alternatives.** Within a section of an instruction, there may be two or more possible choices presented as alternative content contained within separate parentheses. Sometimes the alternatives indicate possible choices that will have to be made so that the instruction matches the circumstances and facts of the case involved. Inapplicable choices should never be presented to the jury. At other times, the alternatives will indicate possible choices between content that mean the same thing; the trial judge should select the most clear or most easily understood choice. In written instructions distributed to a jury, the trial judge should delete the use of parentheses and instead simply include only the applicable word or words selected.

- **Example:**

CV 401.07 Foreseeability [Rev. 1/10/04], § 1. GENERAL. In deciding whether (reasonable) (ordinary) care was used, you will consider whether (the defendant) (either party) in question should have foreseen under the circumstances that the likely result of an act or failure to act would cause some (injury) (damage).

- **Example of actual instruction given to jury:**

In deciding whether reasonable care was used, you will consider whether the defendant in question should have foreseen under the circumstances that the likely result of an act or failure to act would cause some injury.

- **Parenthetical language.** Within a suggested instruction, there may be language contained in parentheses that is not an alternative content choice, but is instead content that the trial judge should read and submit to the jury only when it is applicable or required based on the specific circumstances or facts of the case involved. This parenthetical language serves the same function as model instructions contained in sections headings containing the use of “(ADDITIONAL)” as explained above. Because the parenthetical language is often less than a sentence, it has not received its own section heading.

- **Example:** If you find that the state proved beyond a reasonable doubt all the essential elements of the offense of _____, your verdict must be guilty (as to one or more of the defendants, according to your findings).

- **Multiple parentheticals.** Parentheses usually indicate two or more possible choices presented as alternative content. Sometimes, however, multiple parentheticals indicate two or more units of thought that, by virtue of necessary sentence structure, fall as back-to-back parentheticals, not all of which are alternatives to one another. The last

parenthetical(s) may require another selection between distinct alternatives or, as shown below, it may require insertion of a distinct unit of thought.

• **Example:**

The defendant caused the death of *(insert name of victim)* as a proximate result of (committing) (attempting to commit) *(insert name of offense of violence)*.

• **Italics.** Similar to the use of blanks, when content is placed in italics, a user must supply the specific necessary content.

• **Example:**

CV 453.07 Tortious Interference with expectancy of inheritance [Rev. 12/5/09], § 1. GENERAL. The plaintiff claims that the defendant intentionally interfered with his/her/its expectancy of inheritance from *(insert name of decedent)* and that the plaintiff was damaged as a result.

• **Presentation of alternatives.** Depending upon the circumstances and facts of the case involved, there is often a need to present alternative instructions to a jury. Alternative instructions are separated by “(or).” When the trial judge should select only one of a number of possible alternative instructions, italicized language preceding the list of choices directs the judge to “*(Use appropriate alternative)*.” When there is a possible need to read and submit more than one alternative to the jury, italicized language preceding the list of choices directs the trial judge to “*(Use appropriate alternative[s])*.”

• **Example:**

CV 433.01 Right of publicity in individual's persona R.C. Chapter 2741 (claims arising on and after 11/22/99) [Rev. 5/8/10], § 4. COMMERCIAL PURPOSE. “Commercial purpose” means the use of or reference to an aspect of an individual's (name) (voice) (signature) (photograph) (image) (likeness) (distinctive appearance)

(Use appropriate alternative[s])

(A) on or in connection with a place, product, merchandise, goods, services, or other commercial activities;

(or)

(B) for advertising or soliciting the purchase of products, merchandise, goods, services, or other commercial activities;

(or)

(C) for the purpose of promoting travel to a place;

(or)

(D) for the purpose of fundraising.

• **Example of actual instruction given to jury:**

“Commercial purpose” means the use of or reference to an aspect of an individual's distinctive appearance for advertising or soliciting the purchase of products, merchandise, goods, services, or other commercial activities.

• **Comments.** No material identified as “COMMENT” text should be read or submitted to the jury. *OJI* frequently includes material that is set out under the heading of a

“COMMENT” and encapsulated in a box, italicized, or appears in smaller font and indented. This commentary generally includes references to statutory and case law authority that provide the source for the model instruction given. Other content included as commentary can include explanations by the Ohio Jury Instructions Committee for a model instruction, suggestions for the trial judge, and indications of what by consensus the Committee believes in regard to an instruction. Comments may also contain material explaining the applicability or limitations of an instruction. The research reflected in a comment should not be considered exhaustive and cannot be relied upon as the most current authority on the issue dealt with by the instruction.

- **Use of “Drawn from.”** “Drawn from” is used when the text of the instruction follows the language in the cited authority but not verbatim.

- **Example:**

CV 617.03 Invitee; business visitor [Rev. 10/9/09], § 4. OPEN AND OBVIOUS.

COMMENT

Drawn from *Armstrong v. Best Buy Co. Inc.*, 99 Ohio St.3d 79, 2003-Ohio-2573; *Simmers v. Bentley Contr. Co.*, 64 Ohio St.3d 642, 1992-Ohio-42. The “open and obvious” doctrine remains a viable part of Ohio law. The split among the appellate courts is effectively reconciled by the “attendant circumstances” exception to the doctrine. Both instructions (“open and obvious” and “attendant circumstances”) should be given whenever the trial court has decided to instruct on “open and obvious.”

In *Robinson v. Bates*, 112 Ohio St.3d 17, 2006-Ohio-6362, the Court held that, although the open and obvious doctrine can excuse a defendant’s breach of a common-law duty of care, it does not override statutory duties because the violation of a statutory duty constitutes negligence per se. In *Lang v. Holly Hill Motel, Inc.*, 122 Ohio St.3d 120, 2009-Ohio-2495, the Court held that the open and obvious doctrine may be asserted as a defense to a claim of liability arising from a violation of the Ohio Basic Building Code because administrative rule violations do not constitute negligence per se.

- **Definitions.** When an instruction uses a term or terms that need to be defined for a jury, a subsequent numbered section or subsection in that instruction provides either the definition or a reference to elsewhere in *OJI* or in the Ohio Revised Code where the definition to be read and submitted to the jury exists.

- **Examples:**

CV 453.07 Tortious interference with expectancy of inheritance, § 6. UNDUE INFLUENCE. “Undue influence” means that which overpowers the will of a person and induces him/her into making a distribution of his/her property that he/she would not have made if left to act freely and according to his/her own plans and desires.

CV 453.07 Tortious interference with expectancy of inheritance, § 7. REASONABLY CERTAIN. *OJI*-CV 315.01 (offenses committed on and after 4/7/05) § 10.

- **Verdict forms.** *OJI* includes some suggested templates for verdict forms, often set forth at the end of a particular instruction.
- **Interrogatories.** *OJI* sometimes includes model interrogatories. Generally, these are provided when interrogatories are required by statute or case law. Depending upon the facts of the case and the number and identity of the parties, interrogatories may need to be modified, and judges should thoroughly examine and, if necessary, edit the interrogatories before submitting them to a jury.
- **Language and style.** When pronoun usage depends upon the gender-specific (or neutral) selection of content, *OJI* indicates the possible choices by using “he/she/it” or “his/her/its.” In selecting the applicable pronoun, the trial judge may elect to modify proposed choices to use gender-neutral language as appropriate. When the appropriate form of an article depends on the selection of content, *OJI* indicates the possible options by using “a/an.” The trial judge should select the applicable article and not provide the jury with both article options.
- **Other explanatory material.** Primarily intended for new judges and practitioners, *OJI* includes several sections discussing how to conduct a jury trial, including checklists and sample instructions. This material is set forth at Title 1 and Title 2 of both volumes.
- **Citation within *OJI*.** *OJI* adheres to the *Ohio Manual of Citations*. Where the *Manual* does not provide guidance on citation form, *OJI* then follows *The Bluebook: A Uniform System of Citation*.
- **Citation of *OJI*.** In the state courts of Ohio, users should follow the *Ohio Manual of Citations* when citing *OJI*.
 - **Example:**

Ohio Jury Instructions, CV Section 537.17 (Rev. Dec. 10, 2011)
- **Contributing suggestions to *OJI*.** The Committee welcomes input from both bench and bar. Proposed instructions or communications raising specific concerns that are supported by existing law or its interpretation may be submitted in writing through the Ohio Judicial Conference or members of the Committee.

OHIO JURY INSTRUCTIONS

*A collection of STANDARD JURY
INSTRUCTIONS in civil and criminal
cases prepared by the Jury Instructions
Committee of the Ohio Judicial
Conference.*

CRIMINAL INSTRUCTIONS
GENERAL
SPECIAL TOPICS



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[Illegible text block containing case details, possibly a complaint or petition, with multiple paragraphs of text.]

PREFACE TO OHIO JURY INSTRUCTIONS

This preface introduces a new revised edition of the Ohio Jury Instructions (OJI) reorganized into self-contained civil and criminal volumes. The former Volume 1 “General Instructions” has been eliminated. Applicable general instructions are included in the civil and criminal volumes. There is one civil volume, now organized by general subject matter areas, and one criminal volume; however, there are three binders. The criminal volume is contained in two binders with a separate tab for “Traffic” offenses.

The purpose of the reorganization is to simplify use of OJI by judges and practitioners. Users will no longer have to switch back and forth between the current Volume 1 “General Instructions” and the substantive instructions contained in the remaining volumes. Also, the numbering of all instructions has been revised and simplified. Instructions will now be identified as “CV” (Civil) and “CR” (Criminal). For example, current 4 OJI 503.01, dealing with Aggravated Murder, becomes CR 503.01. A “Correlation Table” is included in each volume containing previous and new section numbers. Both volumes have newly designed, slightly larger loose-leaf binders. The format of individual instructions has not changed.

COMMENT

These first two paragraphs summarize the current reorganization. The balance of the preface provides historical perspective.

Ohio Jury Instructions, commonly called “OJI”, was originally the project of Judges Robert L. McBride and Eugene R. McNeill. Its purpose was to present, in the same place in a single set of books, the instructions prepared by judges along with specific examples of such instructions, as well as others that were given in actual cases. The project was a joint effort of the Ohio Judicial Conference and the Ohio Common Pleas Judges Association. It was believed that the Bench and the Bar of Ohio should have the benefit, as well as the economy and convenience, of having all jury instruction material in one place in a single set of books. The jury instruction committee was composed exclusively of judges. In the event that the Committee was unable to develop a “standard” instruction, instructions were provided from individual cases. In theory, this method of combined presentation permitted the Committee to take the time required to develop its “standard” material through provisional drafts and experimental use prior to publication. The consensus among OJI Committee members was that the work of an individual judge would always be helpful until such time as “standard” instructions were developed.

Then, as now, the copyright was owned by the Ohio Judicial Conference, thereby providing for the permanent supervision by the judiciary of the development and publication of the OJI jury instructions.

It was the hope of all parties involved in 1958 that the Ohio Jury Instructions (OJI) would be helpful to the Bench and to the Bar and that the usefulness of the work would improve over the years with the continued cooperation of those interested in the instructional administration of the judicial system in the State of Ohio.

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COMMENT

Drawn from "THE NEW OJI" by Robert L. McBride, Chairman, and Eugene R. McNeill, Vice Chairman.

In 1960, a "*Standard Civil Outline—Negligence*" was released. A companion criminal outline followed in 1962. The responsibility for publication of the instructions was assigned to the Ohio Judicial Conference to relieve the Ohio Common Pleas Judges Association of the printing, sale and distribution of the material.

A standard or pattern jury instruction is a brief, accurate, and complete statement in simple and understandable language covering a single situation, purpose, or point of law. Interest and comprehension by the jury are the first considerations. Technical expressions of decision, partisan language, and references to evidence are eliminated. Exceptional situations are set out separately for use when required by special facts. The Committee recognizes the necessity for direct and simple English. "A court in considering the propriety of any jury instruction must always bear in mind that the purpose of the jury instruction is to clarify the issues and the jury's position in the case. It must be remembered that juries are composed of ordinary people on the street, not trained grammarians, and that fine distinctions in the meaning of words or phrases are not ordinarily recognized by the average layperson. Thus, in considering the propriety of any instruction, the meaning of the words used in the instruction must be thought of in their common meaning to the layperson and not what such words mean to the grammarian or to the trained legal mind." *Bahm v. Pittsburgh & Lake Erie RR. Co.* (1966), 6 Ohio St.2d 192.

COMMENT

Drawn from *Preface to Volume I—1968*.

Three types of instruction appeared in OJI: (1) the "standard" or "pattern" instruction, though not necessarily titled as such; (2) the "approved" instruction, which is an instruction found in a particular case, and (3) the "new" instruction, which is a pattern instruction recommended by the Committee, but which has not yet withstood the test of time. OJI no longer uses these titles.

COMMENT

Drawn from *Preface to Volume I—1983*.

In January 1987, the Ohio Jury Instructions Committee reorganized itself and adopted a plan for the revision of the civil instructions. Under the reorganization, the Committee consisted of an editorial board composed of trial and appellate judges with final approval of all material to be published in OJI, and the writing committees appointed ad hoc to draft new material and revisions. The Board also employed a law professor as an editorial consultant, whose task was to review all drafts, to evaluate their accuracy and scope, and to assure conformity with the Committee's Style Manual. The writing committees were composed of experienced and knowledgeable persons from the judicial, practicing, and academic branches of the profession, under the supervision of a member of the Editorial Board.

It was during this phase in the development of OJI that the use of Comments was broadened to advise OJI users of many matters deemed to be of major significance. During this phase, the

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Committee designated as “PROVISIONAL” those instructions published to be of assistance to the Bench and Bar of Ohio, but (of necessity) without specific judicial approval. OJI no longer designates instructions as “PROVISIONAL.” During this general time period, a software version of OJI became available for various personal computers.

COMMENT

Drawn from “*Preface to Ohio Jury Instructions—1993.*”

In the words of former Chair Robert B. Ford, “ever shorter, ever plainer, ever fairer, this is the mission of OJI.” Although it is easy to state the goal, it is difficult to attain it. In Ohio, pattern jury instructions are not “pre-approved” by appellate courts. Therefore, it is sometimes difficult to use “plain English” because the Committee is required to use statutory and case law language in drafting instructions. The law is also evolving, and the ever-increasing number of statutes and cases constantly increases the volume of the Committee’s work.

The Committee has divided into Civil and Criminal Subcommittees and developed an informal protocol in order to meet the need for more and more instructions. The Ohio State Bar Association and its jury instructions committee have joined with the Ohio Judicial Conference in the ongoing effort to enhance this product. The combined effort has already generated numerous quality instructions, both civil and criminal. Multiple drafting committees using the talents of both Bench and Bar are now in place to draft and modify instructions. Other such drafting committees will be formed as needed.

Enhanced technology has also found its way into OJI. Most, if not all, of the OJI Committee’s members have laptop computers to aid their efforts. Use of projection and internet technology at subcommittee meetings has greatly enhanced the editing process. At present, OJI is published in print and CD versions by LexisNexis and on-line versions by LexisNexis, Westlaw, and Casemaker, thereby maximizing user access.

And so it goes . . . evolving, hopefully improving . . .

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7.19	OJI-CV 401.17
7.20	OJI-CV 401.19
7.25	OJI-CV 401.21
7.26	OJI-CV 401.23
7.27	OJI-CV 401.25
7.28	OJI-CV 401.27

Previous Instruction Number	New Edition Instruction Number
7.29	OJI-CV 401.29
7.30	OJI-CV 401.31
7.35	OJI-CV 401.33
7.70	OJI-CV 401.35
7.71	OJI-CV 401.37
7.80	OJI-CV 401.39
7.90	OJI-CV 401.41
9.13 (claims arising on and after 4/9/03)	OJI-CV 403.01 (claims arising on and after 4/9/03)
9.13 (claims arising before 1/5/88)	OJI-CV 403.01 (claims arising before 1/5/88)
9.13 (claims arising on and after 1/5/88 but before 4/9/03)	OJI-CV 403.01 (claims arising on and after 1/5/88 but before 4/9/03)
9.15 (claims arising on and after 4/9/03)	OJI-CV 403.03 (claims arising on and after 4/9/03)
9.15 (claims arising before 1/5/88)	OJI-CV 403.03 (claims arising before 1/5/88)
9.15 (claims arising on and after 1/5/88 but before 4/9/03)	OJI-CV 403.03 (claims arising on and after 1/5/88 but before 4/9/03)
9.17 (claims arising on and after 4/9/03)	OJI-CV 403.05 (claims arising on and after 4/9/03)
9.17 (claims arising on and after 1/5/88 but before 4/9/03)	OJI-CV 403.05 (claims arising on and after 1/5/88 but before 4/9/03)
9.19 (claims arising on and after 4/9/03)	OJI-CV 403.07 (claims arising on and after 4/9/03)
9.19 (claims arising on and after 1/5/88 but before 4/9/03)	OJI-CV 403.07 (claims arising on and after 1/5/88 but before 4/9/03)
9.50	OJI-CV 403.09
9.60	OJI-CV 403.11
9.70	OJI-CV 403.13
11.10	OJI-CV 405.01
11.20	OJI-CV 405.03
11.30	OJI-CV 405.05
13.01	OJI-CV 617.01
13.03	OJI-CV 617.03
13.05	OJI-CV 617.05
13.07	OJI-CV 617.07
13.09	OJI-CV 617.09
13.11	OJI-CV 617.11
13.13	OJI-CV 617.13
13.15	OJI-CV 617.15
13.17	OJI-CV 617.17
13.19	OJI-CV 617.19
13.21	OJI-CV 617.21
15.10	OJI-CV 423.01

Previous Instruction Number	New Edition Instruction Number
15.11	OJI-CV 423.03
15.30	OJI-CV 423.05
15.31	OJI-CV 423.07
15.50	OJI-CV 423.09
15.51	OJI-CV 423.11
15.52	OJI-CV 423.13
15.70	OJI-CV 423.15
17.00	OJI-CV 311.03
17.05	OJI-CV 311.05
17.11	OJI-CV 311.07
17.13	OJI-CV 311.11
17.15	OJI-CV 311.13
17.16	OJI-CV 311.15
17.20	OJI-CV 311.17
17.30	OJI-CV 311.19
17.40	OJI-CV 311.21
17.50	OJI-CV 311.23
17.60	OJI-CV 311.25
17.70	OJI-CV 311.27
17.90	OJI-CV 311.29
21.10	OJI-CV 313.01
21.20	OJI-CV 313.03
21.30	OJI-CV 313.05
23.01 (claims arising before 4/9/03)	OJI-CV 315.01 (claims arising before 4/9/03)
23.01 (claims arising on and after 4/7/05)	OJI-CV 315.01 (claims arising on and after 4/7/05)
23.01 (claims arising on and after 4/9/03 but before 4/7/05)	OJI-CV 315.01 (claims arising on and after 4/9/03 but before 4/7/05)
23.02	OJI-CV 315.03
23.04	OJI-CV 315.05
23.05	OJI-CV 315.07
23.07	OJI-CV 315.09
23.08	OJI-CV 315.11
23.09	OJI-CV 315.13
23.10	OJI-CV 315.15
23.20	OJI-CV 315.17
23.40	OJI-CV 315.19
23.41	OJI-CV 315.21
23.42	OJI-CV 315.23
23.43	OJI-CV 315.25
23.50	OJI-CV 315.27
23.55	OJI-CV 315.29
23.56	OJI-CV 315.31

Previous Instruction Number	New Edition Instruction Number
23.57	OJI-CV 315.33
23.60	OJI-CV 315.35
23.71 (claims arising on and after 1/5/88 but before 4/7/05)	OJI-CV 315.37 (claims arising on and after 1/5/88 but before 4/7/05)
23.71 (claims arising on and after 4/7/05)	OJI-CV 315.37 (claims arising on and after 4/7/05)
23.72	OJI-CV 315.39
23.75	OJI-CV 315.41
23.76	OJI-CV 315.43
23.77	OJI-CV 315.45
23.90	OJI-CV 315.47
23.91	OJI-CV 315.49
23.92	OJI-CV 315.51
23.93	OJI-CV 315.53
25.10	OJI-CV 317.01
25.20	OJI-CV 317.03
25.30	OJI-CV 317.05
25.40	OJI-CV 317.07
27.01	OJI-CV 319.01
27.05	OJI-CV 319.03
27.10	OJI-CV 319.05
27.50	OJI-CV 319.07
200.01	OJI-CV 435.01
200.03	OJI-CV 435.03
200.05	OJI-CV 435.05
217.01	OJI-CV 409.01
217.03	OJI-CV 409.03
217.05	OJI-CV 409.05
217.07	OJI-CV 409.07
219.01	OJI-CV 429.01
219.02	OJI-CV 429.03
219.03	OJI-CV 429.05
219.05	OJI-CV 429.07
219.07	OJI-CV 429.09
219.09	OJI-CV 429.11
225.01	OJI-CV 411.01
225.02	OJI-CV 411.03
225.03	OJI-CV 411.05
225.04	OJI-CV 411.07
225.05	OJI-CV 411.09
225.07	OJI-CV 411.11
225.08	OJI-CV 411.13
225.12	OJI-CV 411.15
225.13	OJI-CV 411.17

Previous Instruction Number	New Edition Instruction Number
225.131	OJI-CV 411.19
225.14	OJI-CV 411.21
225.15	OJI-CV 411.23
225.19	OJI-CV 411.25
225.20	OJI-CV 411.27
225.201	OJI-CV 411.29
225.202	OJI-CV 411.31
225.21	OJI-CV 411.33
225.22	OJI-CV 411.35
225.25	OJI-CV 411.37
225.251	OJI-CV 411.39
225.26	OJI-CV 411.41
225.27	OJI-CV 411.43
225.28	OJI-CV 411.45
225.29	OJI-CV 411.47
225.30	OJI-CV 411.49
225.31	OJI-CV 411.51
225.32	OJI-CV 411.53
225.33	OJI-CV 411.55
225.34	OJI-CV 411.57
225.35	OJI-CV 411.59
225.36	OJI-CV 411.61
225.37	OJI-CV 411.63
225.38	OJI-CV 411.65
225.39	OJI-CV 411.67
225.40	OJI-CV 411.69
225.41	OJI-CV 411.71
225.42	OJI-CV 411.73
225.43	OJI-CV 411.75
225.431	OJI-CV 411.77
225.44	OJI-CV 411.79
225.441	OJI-CV 411.81
225.45	OJI-CV 411.83
225.451	OJI-CV 411.85
225.452	OJI-CV 411.87
225.46	OJI-CV 411.89
225.47	OJI-CV 411.91
225.48	OJI-CV 411.93
225.481	OJI-CV 411.95
225.49	OJI-CV 411.97
225.50	OJI-CV 411.99
225.51	OJI-CV 411.101
225.52	OJI-CV 411.103
225.66	OJI-CV 411.105

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227.02	OJI-CV 411.107
227.021	OJI-CV 411.109
227.03	OJI-CV 411.111
229.01	OJI-CV 629.01
229.02	OJI-CV 629.03
239.01	OJI-CV 605.01
239.03	OJI-CV 605.03
239.05	OJI-CV 605.05
239.07	OJI-CV 605.07
239.09	OJI-CV 605.09
245.01	OJI-CV 407.01
245.03	OJI-CV 407.03
245.05	OJI-CV 407.05
245.07	OJI-CV 407.07
245.09	OJI-CV 407.09
245.11	OJI-CV 407.11
245.13	OJI-CV 407.13
245.15	OJI-CV 407.15
245.17	OJI-CV 407.17
245.19	OJI-CV 407.19
245.21	OJI-CV 407.21
245.23	OJI-CV 407.23
247.01	OJI-CV 713.01
252.01	OJI-CV 447.01
253.01	OJI-CV 501.01
253.03	OJI-CV 501.03
253.05	OJI-CV 501.05
253.07	OJI-CV 501.07
253.09	OJI-CV 501.09
253.11	OJI-CV 501.11
253.13	OJI-CV 501.13
253.15	OJI-CV 501.15
253.17	OJI-CV 501.17
253.19	OJI-CV 501.19
253.21	OJI-CV 501.21
253.23	OJI-CV 501.23
253.24	OJI-CV 501.25
253.25	OJI-CV 501.27
253.26	OJI-CV 501.29
253.27	OJI-CV 501.31
253.29	OJI-CV 501.33
253.31	OJI-CV 501.35
253.33	OJI-CV 501.37
253.35	OJI-CV 501.39

Previous Instruction Number	New Edition Instruction Number
255.01	OJI-CV 521.01
255.03	OJI-CV 521.03
257.01	OJI-CV 625.01
257.03	OJI-CV 625.03
257.05	OJI-CV 625.05
257.07	OJI-CV 625.07
264.01	OJI-CV 431.01
264.03	OJI-CV 431.03
264.05	OJI-CV 431.05
264.07	OJI-CV 431.07
265.01	OJI-CV 419.01
265.02	OJI-CV 419.03
266.01	OJI-CV 533.01
266.03	OJI-CV 533.03
266.05	OJI-CV 533.05
266.07	OJI-CV 533.07
266.09	OJI-CV 533.09
266.11	OJI-CV 533.11
266.15	OJI-CV 533.13
266.17	OJI-CV 533.15
266.19	OJI-CV 533.17
266.21	OJI-CV 533.19
266.23	OJI-CV 533.21
266.25	OJI-CV 533.23
266.27	OJI-CV 533.25
271.01	OJI-CV 453.01
271.03	OJI-CV 453.03
301.01	OJI-CV 609.01
301.03	OJI-CV 609.03
301.05	OJI-CV 609.05
301.07	OJI-CV 609.07
301.09	OJI-CV 609.09
301.11	OJI-CV 609.11
301.13	OJI-CV 609.13
301.15	OJI-CV 609.15
301.17	OJI-CV 609.17
301.19	OJI-CV 609.19
301.21	OJI-CV 609.21
301.23	OJI-CV 609.23
302.01	OJI-CV 537.01
302.03	OJI-CV 453.05
302.05 (claims arising before 4/09/03)	OJI-CV 537.05 (claims arising before 4/09/03)

Previous Instruction Number	New Edition Instruction Number
302.05 (claims arising on and after 4/7/05)	OJI-CV 537.05 (claims arising on and after 4/7/05)
302.05 (claims arising on and after 4/9/03 but before 4/7/05)	OJI-CV 537.05 (claims arising on and after 4/9/03 but before 4/7/05)
302.07	OJI-CV 537.07
302.09	OJI-CV 537.09
302.11	OJI-CV 537.11
302.13	OJI-CV 537.13
302.15	OJI-CV 537.15
302.17	OJI-CV 537.17
305.01	OJI-CV 437.01
307.01	OJI-CV 449.01
307.03	OJI-CV 449.03
307.05	OJI-CV 449.05
307.07	OJI-CV 449.07
307.09	OJI-CV 449.09
307.11	OJI-CV 449.11
307.13	OJI-CV 449.13
307.15	OJI-CV 449.15
307.17	OJI-CV 449.17
309.01	OJI-CV 441.01
309.03	OJI-CV 441.03
309.05	OJI-CV 441.05
309.07	OJI-CV 441.07
312.01	OJI-CV 425.01
312.03	OJI-CV 425.03
312.05	OJI-CV 425.05
312.07	OJI-CV 425.07
312.09	OJI-CV 425.09
312.11	OJI-CV 425.11
312.13	OJI-CV 425.13
312.15	OJI-CV 425.15
313.01	OJI-CV 637.01
313.03	OJI-CV 637.03
313.05	OJI-CV 637.05
313.07	OJI-CV 637.07
313.09	OJI-CV 637.09
313.11	OJI-CV 637.11
315.01	OJI-CV 509.01
315.02	OJI-CV 509.03
315.03	OJI-CV 509.05
315.04	OJI-CV 509.07
317.01	OJI-CV 701.01
317.03	OJI-CV 701.03

Previous Instruction Number	New Edition Instruction Number
317.05	OJI-CV 701.05
317.07	OJI-CV 701.07
317.09	OJI-CV 701.09
317.11	OJI-CV 701.11
317.13	OJI-CV 701.13
317.15	OJI-CV 701.15
319.01	OJI-CV 415.01
319.03	OJI-CV 415.03
319.05	OJI-CV 415.05
319.07	OJI-CV 415.07
319.09	OJI-CV 415.09
319.11	OJI-CV 415.11
323.01	OJI-CV 709.01
323.03	OJI-CV 709.03
323.05	OJI-CV 709.05
323.07	OJI-CV 709.07
323.09	OJI-CV 709.09
323.11	OJI-CV 709.11
323.13	OJI-CV 709.13
323.15	OJI-CV 709.15
323.17	OJI-CV 709.17
323.19	OJI-CV 709.19
323.21	OJI-CV 709.21
323.23	OJI-CV 709.23
323.25	OJI-CV 709.25
323.27	OJI-CV 709.27
323.29	OJI-CV 709.29
323.31	OJI-CV 709.31
323.33	OJI-CV 709.33
323.35	OJI-CV 709.35
323.37	OJI-CV 709.37
323.39	OJI-CV 709.39
323.41	OJI-CV 709.41
323.43	OJI-CV 709.43
323.45	OJI-CV 709.45
323.47	OJI-CV 709.47
323.49	OJI-CV 709.49
323.51	OJI-CV 709.51
323.53	OJI-CV 709.53
323.55	OJI-CV 709.55
323.57	OJI-CV 709.57
323.59	OJI-CV 709.59
323.61	OJI-CV 709.61
323.63	OJI-CV 709.63

Previous Instruction Number	New Edition Instruction Number
323.65	OJI-CV 709.65
325.01	OJI-CV 413.01
325.03	OJI-CV 413.03
325.05	OJI-CV 413.05
325.07	OJI-CV 413.07
325.09	OJI-CV 413.09
325.11	OJI-CV 413.11
327.01	OJI-CV 613.01
327.03	OJI-CV 613.03
327.05	OJI-CV 613.05
327.07	OJI-CV 613.07
327.11	OJI-CV 613.09
327.13	OJI-CV 613.11
327.15	OJI-CV 613.13
327.17	OJI-CV 613.15
327.19	OJI-CV 613.17
327.21	OJI-CV 613.19
327.23	OJI-CV 613.21
327.25	OJI-CV 613.23
327.27	OJI-CV 613.25
327.29	OJI-CV 613.27
327.31	OJI-CV 613.29
327.33	OJI-CV 613.31
327.35	OJI-CV 613.33
329.01	OJI-CV 529.01
330.01	OJI-CV 439.01
330.03	OJI-CV 439.03
330.05	OJI-CV 439.05
330.07	OJI-CV 439.07
330.09	OJI-CV 439.09
331.01	OJI-CV 417.01
331.03	OJI-CV 417.03
331.05	OJI-CV 417.05
331.07	OJI-CV 417.07
331.09	OJI-CV 417.09
331.11	OJI-CV 417.11
331.13	OJI-CV 417.13
331.15	OJI-CV 417.15
331.17	OJI-CV 417.17
331.19	OJI-CV 417.19
333.01	OJI-CV 421.01
333.03	OJI-CV 421.03
333.05	OJI-CV 421.05
333.07	REMOVED

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345.01	OJI-CV 621.01
345.03	OJI-CV 621.03
345.05	OJI-CV 621.05
345.07	OJI-CV 621.07
345.09	OJI-CV 621.09
345.11	OJI-CV 621.11
345.13	OJI-CV 621.13
348.01	OJI-CV 705.01
348.03(A)	OJI-CV 705.03
348.03(B)	OJI-CV 705.05
348.07	OJI-CV 705.07
348.09	OJI-CV 705.09
348.11	OJI-CV 705.11
348.13	OJI-CV 705.13
348.15	OJI-CV 705.15
349.01	OJI-CV 433.01
349.03	OJI-CV 433.03
349.05	OJI-CV 433.05
349.07	OJI-CV 433.07
349.09	OJI-CV 433.09
349.11	OJI-CV 433.11
349.13	OJI-CV 433.13
351.01	OJI-CV 451.01
351.03	OJI-CV 451.03
351.05	OJI-CV 451.05
351.07	OJI-CV 451.07
351.09	OJI-CV 451.09
351.11	OJI-CV 451.11
351.13	OJI-CV 451.13
351.15	OJI-CV 451.15
351.17	OJI-CV 451.17
351.19	OJI-CV 451.19
351.21	OJI-CV 451.21
351.23	OJI-CV 451.23
354.01	OJI-CV 601.01
354.03	OJI-CV 601.03
354.05	OJI-CV 601.05
354.07	OJI-CV 601.07
354.09	OJI-CV 601.09
355.01	OJI-CV 443.01
356.01	OJI-CV 445.01
356.03	OJI-CV 445.03
356.05	OJI-CV 445.05
356.07	OJI-CV 445.07

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356.09	OJI-CV 445.09
356.11	OJI-CV 445.11
356.13	OJI-CV 445.13
356.15	OJI-CV 445.15
356.17	OJI-CV 445.17
356.19	OJI-CV 445.19
356.21	OJI-CV 445.21
356.23	OJI-CV 445.23
356.25	OJI-CV 445.25
359.01	OJI-CV 513.01
359.03	OJI-CV 513.03
359.05	OJI-CV 513.05
359.07	OJI-CV 513.07
359.09	OJI-CV 513.09
362.01	OJI-CV 505.01
362.03	OJI-CV 505.03
362.05	OJI-CV 505.05
362.07	OJI-CV 505.07
362.09	OJI-CV 505.09
362.11	OJI-CV 505.11
362.13	OJI-CV 505.13
362.15	OJI-CV 505.15
362.17	OJI-CV 505.17
362.19	OJI-CV 505.19
362.21	OJI-CV 505.21
362.23	OJI-CV 505.23
362.25	OJI-CV 505.25
362.27	OJI-CV 505.27
362.29	OJI-CV 505.29
362.31	OJI-CV 505.31
362.33	OJI-CV 505.33
362.35	OJI-CV 505.35
362.37	OJI-CV 505.37
362.39	OJI-CV 505.39
362.41	OJI-CV 505.41
362.43	OJI-CV 505.43
362.45	OJI-CV 505.45
362.47	OJI-CV 505.47
362.49	OJI-CV 505.49
362.51	OJI-CV 505.51
362.53	OJI-CV 505.53
363.01	OJI-CV 633.01
363.03	OJI-CV 633.03
363.05	OJI-CV 633.05

Previous Instruction Number	New Edition Instruction Number
363.07	OJI-CV 633.07
363.09	OJI-CV 633.09
363.13	OJI-CV 633.11
365.01	OJI-CV 427.01
365.03	OJI-CV 427.03
365.05	OJI-CV 427.05
365.07	OJI-CV 427.07
365.09	OJI-CV 427.09
365.11	OJI-CV 427.11
365.13	OJI-CV 427.13
365.15	OJI-CV 427.15
365.17	OJI-CV 427.17
365.19	OJI-CV 427.19
369.01	OJI-CV 517.01
369.03	OJI-CV 517.03
369.05	OJI-CV 517.05
369.07	OJI-CV 517.07
369.09	OJI-CV 517.09
369.11	OJI-CV 517.11
369.13	OJI-CV 517.13
369.15	OJI-CV 517.15
369.17	OJI-CV 517.17

CRIMINAL INSTRUCTIONS CORRELATION TABLE

Previous Instruction Number	New Edition Instruction Number
1.01	OJI-CR 101.01
1.03	OJI-CR 101.03
1.05	OJI-CR 101.05
1.07	OJI-CR 101.07
1.09	OJI-CR 101.09
1.11	OJI-CR 101.11
1.13	OJI-CR 101.13
1.15	OJI-CR 101.15
1.17	OJI-CR 101.17
1.19	OJI-CR 101.19
1.21	OJI-CR 101.21
1.23	OJI-CR 101.23
1.25	OJI-CR 101.25
1.27	OJI-CR 101.27
1.29	OJI-CR 101.29
1.31	OJI-CR 101.31
1.33	OJI-CR 101.33
1.35	OJI-CR 101.35
1.37	OJI-CR 101.37
1.39	OJI-CR 101.39
1.41	OJI-CR 101.41
1.43	OJI-CR 101.43
1.45	OJI-CR 101.45
1.47	OJI-CR 101.47
1.49	OJI-CR 101.49
1.51	OJI-CR 101.51
1.53	OJI-CR 101.53
1.55	OJI-CR 101.55
1.57	OJI-CR 101.57
1.59	OJI-CR 101.59
1.61	OJI-CR 101.61
1.63	OJI-CR 101.63
1.65	OJI-CR 101.65
1.67	OJI-CR 101.67
1.69	OJI-CR 101.69
1.71	OJI-CR 101.71
1.73	OJI-CR 101.73
1.75	OJI-CR 101.75
1.77	OJI-CR 101.77
1.79	OJI-CR 101.79
1.81	OJI-CR 101.81
1.83	OJI-CR 101.83

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1.85	OJI-CR 101.85
1.87	OJI-CR 101.87
401.01	OJI-CR 301.01
401.02	OJI-CR 301.03
401.03	OJI-CR 301.05
401.04	OJI-CR 301.07
402.10	OJI-CR 401.01
402.11	OJI-CR 401.03
402.12	OJI-CR 401.05
402.20	OJI-CR 401.07
402.21	OJI-CR 401.09
402.25	OJI-CR 401.11
402.30	OJI-CR 401.13
402.50	OJI-CR 401.15
402.51	OJI-CR 401.17
402.52	OJI-CR 401.19
402.53	OJI-CR 401.21
402.60	OJI-CR 401.23
402.61	OJI-CR 401.25
402.99	OJI-CR 401.27
403.01	OJI-CR 405.01
403.03	OJI-CR 405.03
403.10	OJI-CR 405.05
403.50	OJI-CR 405.07
403.55	OJI-CR 405.09
405.01	OJI-CR 409.01
405.10	OJI-CR 409.03
405.20	OJI-CR 409.05
405.21	OJI-CR 409.07
405.22	OJI-CR 409.11
405.25	OJI-CR 409.13
405.40	OJI-CR 409.15
405.41	OJI-CR 409.17
405.50	OJI-CR 409.19
405.51	OJI-CR 409.21
405.52	OJI-CR 409.23
405.60	OJI-CR 409.25
405.63	OJI-CR 409.27
405.64	OJI-CR 409.29
405.65	OJI-CR 409.31
405.91	OJI-CR 409.33
407.01	OJI-CR 413.01
407.03	OJI-CR 413.03
407.05	OJI-CR 413.05

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407.10	OJI-CR 413.07
409.01	OJI-CR 417.01
409.02	OJI-CR 417.03
409.03	OJI-CR 417.05
409.05	OJI-CR 417.07
409.07	OJI-CR 417.09
409.11	OJI-CR 417.11
409.13	OJI-CR 417.13
409.15	OJI-CR 417.15
409.21	OJI-CR 417.17
409.31	OJI-CR 417.19
409.50	OJI-CR 417.21
409.55	OJI-CR 417.23
409.56	OJI-CR 417.25
409.57	OJI-CR 417.27
409.60	OJI-CR 417.29
409.65	OJI-CR 417.31
409.67	OJI-CR 417.33
411.01	OJI-CR 421.01
411.03	OJI-CR 421.03
411.05	OJI-CR 421.05
411.07	OJI-CR 421.07
411.10 (offenses committed before 10/27/00)	OJI-CR 421.09 (offenses committed before 10/27/00)
411.10 (offenses committed on and after 10/27/00)	OJI-CR 421.09 (offenses committed on and after 10/27/00)
411.11 (offenses committed before 10/27/00)	OJI-CR 421.11 (offenses committed before 10/27/00)
411.11 (offenses committed on and after 10/27/00)	OJI-CR 421.11 (offenses committed on and after 10/27/00)
411.19	OJI-CR 421.13
411.20	OJI-CR 421.15
411.25	OJI-CR 421.17
411.31	OJI-CR 421.19
411.33	OJI-CR 421.21
411.35	OJI-CR 421.23
411.51	OJI-CR 421.25
411.53	OJI-CR 421.27
411.55	OJI-CR 421.29
413.01	OJI-CR 425.01
413.05	OJI-CR 425.03
413.10	OJI-CR 425.05
413.11	OJI-CR 425.07
413.21	OJI-CR 425.09

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413.23	OJI-CR 425.11
413.30	OJI-CR 425.13
413.35	OJI-CR 425.15
413.37	OJI-CR 425.17
413.38	OJI-CR 425.19
413.39	OJI-CR 425.21
413.40	OJI-CR 425.23
413.43	OJI-CR 425.25
413.45	OJI-CR 425.27
413.47	OJI-CR 425.29
413.49	OJI-CR 425.31
413.50	OJI-CR 425.33
413.60	OJI-CR 425.35
413.70	OJI-CR 425.37
413.80	OJI-CR 425.39
413.81	OJI-CR 425.41
413.90	OJI-CR 425.43
415.01	OJI-CR 429.01
415.03	OJI-CR 429.03
415.05	OJI-CR 429.05
415.10	OJI-CR 429.07
415.50	OJI-CR 429.09
415.75	OJI-CR 429.11
415.90	OJI-CR 429.13
503.01	OJI-CR 503.01
503.011	OJI-CR 503.011
503.02 (offenses committed on and after 9/6/96 but before 6/30/98)	OJI-CR 503.02 (offenses committed on and after 9/6/96 but before 6/30/98)
503.02 (offenses committed on and after 6/30/98)	OJI-CR 503.02 (offenses committed on and after 6/30/98)
503.03 (offenses committed on and after 9/6/96)	OJI-CR 503.03 (offenses committed on and after 9/6/96)
503.04 (offenses committed on and after 9/6/96 but before 3/23/00)	OJI-CR 503.04 (offenses committed on and after 9/6/96 but before 3/23/00)
503.04 (offenses committed on and after 3/23/00)	OJI-CR 503.04 (offenses committed on and after 3/23/00)
503.041	OJI-CR 503.041
503.05	OJI-CR 503.05
503.06 (offenses committed before 3/23/00)	OJI-CR 503.06 (offenses committed before 3/23/00)
503.06 (offenses committed on and after 3/23/00)	OJI-CR 503.06 (offenses committed on and after 3/23/00)
503.07 (offenses committed on and after 9/6/96) [section repealed 3/23/00]	OJI-CR 503.07 (offenses committed on and after 9/6/96)

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503.08 (offenses committed on and after 9/6/96 but before 3/23/00)	OJI-CR 503.08 (offenses committed on and after 9/6/96 but before 3/23/00)
503.08 (offenses committed on and after 3/23/00)	OJI-CR 503.08 (offenses committed on and after 3/23/00)
503.11(A) (offenses committed on and after 9/6/96) [Rev. 2-24-07]	OJI-CR 503.11(A) (offenses committed on and after 9/6/96)
503.11(B) (offenses committed on and after 3/23/00) [Rev. 1-20-07]	OJI-CR 503.11(B) (offenses committed on and after 3/23/00)
503.12	OJI-CR 503.12
503.13	OJI-CR 503.13
503.14 (offenses committed on and after 9/6/96)	OJI-CR 503.14 (offenses committed on and after 9/6/96)
503.15 (offenses committed on and after 8/25/99)	OJI-CR 503.15 (offenses committed on and after 8/25/99)
503.16	OJI-CR 503.16
503.21 (offenses committed on and after 9/6/96)	OJI-CR 503.21 (offenses committed on and after 9/6/96)
503.22 (offenses committed on and after 9/6/96)	OJI-CR 503.22 (offenses committed on and after 9/6/96)
503.31	OJI-CR 503.31
503.34	OJI-CR 503.34
503.35	OJI-CR 503.35
503.211 (offenses committed before 3/10/00)	OJI-CR 503.211 (offenses committed before 3/10/00)
503.211 (offenses committed on and after 3/10/00)	OJI-CR 503.211 (offenses committed on and after 3/10/00 but before 1/1/08) OJI-CR 503.211 (offenses committed on and after 1/1/08)
503.214	OJI-CR 503.214
505.01(A) (offenses committed before 7/1/96)	OJI-CR 505.01(A) (offenses committed before 7/1/96)
505.01(A) (offenses committed on and after 7/1/96) [Rev. 1-20-07]	OJI-CR 505.01(A) (offenses committed on and after 7/1/96)
505.01(B) (offenses committed before 7/1/96)	OJI-CR 505.01(B) (offenses committed before 7/1/96)
505.01(B) (offenses committed on and after 7/1/96)	OJI-CR 505.01(B) (offenses committed on and after 7/1/96)
505.02 (offenses committed before 7/1/96)	OJI-CR 505.02 (offenses committed before 7/1/96)
505.02 (offenses committed on and after 7/1/96)	OJI-CR 505.02 (offenses committed on and after 7/1/96)
505.03	OJI-CR 505.03
505.04 (offenses committed before 7/1/96)	OJI-CR 505.04 (offenses committed before 7/1/96)
505.05 (offenses committed before 7/1/96)	OJI-CR 505.05
505.05	OJI-CR 505.05

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505.11 (offenses committed before 7/1/96)	OJI-CR 505.11 (offenses committed before 7/1/96)
505.11 (offenses committed on and after 7/1/96)	OJI-CR 505.11 (offenses committed on and after 7/1/96)
505.12	OJI-CR 505.12
505.22 (offenses committed before 7/1/96)	OJI-CR 505.22 (offenses committed before 7/1/96)
505.22 (offenses committed on and after 7/1/96)	OJI-CR 505.22 (offenses committed on and after 7/1/96)
507.02(A)(1) (offenses committed before 7/1/96)	OJI-CR 507.02(A)(1) (offenses committed before 7/1/96)
507.02(A)(1) (offenses committed on and after 7/1/96 but before 3/10/98)	OJI-CR 507.02(A)(1) (offenses committed on and after 7/1/96 but before 3/10/98)
507.02(A)(1) (offenses committed on and after 3/10/98)	OJI-CR 507.02(A)(1) (offenses committed on and after 3/10/98)
507.02(A)(2) (offenses committed before 7/1/96)	OJI-CR 507.02(A)(2) (offenses committed before 7/1/96)
507.02(A)(2) (offenses committed on and after 7/1/96)	OJI-CR 507.02(A)(2) (offenses committed on and after 7/1/96)
507.03 (offenses committed before 7/1/96)	OJI-CR 507.03 (offenses committed before 7/1/96)
507.03 (offenses committed on and after 7/1/96)	OJI-CR 507.03 (offenses committed on and after 7/1/96)
507.04 (offenses committed before 7/1/96)	OJI-CR 507.04 (offenses committed before 7/1/96)
507.04 (offenses committed on and after 7/1/96)	OJI-CR 507.04 (offenses committed on and after 7/1/96)
507.05 (offenses committed before 7/1/96)	OJI-CR 507.05 (offenses committed before 7/1/96)
507.05 (offenses committed on and after 7/1/96 but before 3/10/98)	OJI-CR 507.05 (offenses committed on and after 7/1/96 but before 3/10/98)
507.05 (offenses committed on and after 3/10/98)	OJI-CR 507.05 (offenses committed on and after 3/10/98)
507.06 (offenses committed before 7/1/96)	OJI-CR 507.06 (offenses committed before 7/1/96)
507.06 (offenses committed on and after 7/1/96)	OJI-CR 507.06 (offenses committed on and after 7/1/96)
507.07 (offenses committed before 3/22/01)	OJI-CR 507.07 (offenses committed before 3/22/01)
507.07 (offenses committed on and after 3/22/01 but before 5/7/02)	OJI-CR 507.07 (offenses committed on and after 3/22/01 but before 5/7/02)
507.07 (offenses committed on and after 5/7/02 but before 7/31/03)	OJI-CR 507.07 (offenses committed on and after 5/7/02 but before 7/31/03)
507.07 (offenses committed on and after 7/31/03)	OJI-CR 507.07 (offenses committed on and after 7/31/03)

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507.08 (offenses committed before 1/30/98)	OJI-CR 507.08 (offenses committed before 1/30/98)
507.08 (offenses committed on and after 1/30/98)	OJI-CR 507.08 (offenses committed on and after 1/30/98)
507.09 (offenses committed before 9/26/05)	OJI-CR 507.09 (offenses committed before 9/26/05)
507.09 (offenses committed on and after 9/26/05)	OJI-CR 507.09 (offenses committed on and after 9/26/05)
507.12(A)(1) (offenses committed before 9/3/96)	OJI-CR 507.12(A)(1) (offenses committed before 9/3/96)
507.12(A)(2) (offenses committed before 9/3/96)	OJI-CR 507.12(A)(2) (offenses committed before 9/3/96)
507.21 (offenses committed before 7/1/96)	OJI-CR 507.21 (offenses committed before 7/1/96)
507.21 (offenses committed on and after 7/1/96)	OJI-CR 507.21 (offenses committed on and after 7/1/96)
507.22 (offenses committed before 7/1/96)	OJI-CR 507.22 (offenses committed before 7/1/96)
507.22 (offenses committed on and after 7/1/96)	OJI-CR 507.22 (offenses committed on and after 7/1/96)
507.23	OJI-CR 507.23
507.24	OJI-CR 507.24
507.25 (offenses committed before 7/1/96)	OJI-CR 507.25 (offenses committed before 7/1/96)
507.31 (offenses committed before 7/1/96)	OJI-CR 507.31 (offenses committed before 7/1/96)
507.31 (offenses committed on and after 7/1/96 but before 1/1/04)	OJI-CR 507.31 (offenses committed on and after 7/1/96 but before 1/1/04)
507.31 (offenses committed on and after 1/1/04)	OJI-CR 507.31 (offenses committed on and after 1/1/04)
507.32	OJI-CR 507.32
507.33	OJI-CR 507.33
507.34(A) (offenses committed before 7/1/96)	OJI-CR 507.34(A) (offenses committed before 7/1/96)
507.34(A) (offenses committed on and after 7/1/96)	OJI-CR 507.34(A) (offenses committed on and after 7/1/96)
507.34(B) (offenses committed before 7/1/96)	OJI-CR 507.34(B) (offenses committed before 7/1/96)
507.34(B) (offenses committed on and after 7/1/96)	OJI-CR 507.34(B) (offenses committed on and after 7/1/96)
507.42 (offenses committed before 7/1/96)	OJI-CR 507.42 (offenses committed before 7/1/96)
507.42 (offenses committed on and after 7/1/96)	OJI-CR 507.42 (offenses committed on and after 7/1/96)
507.53(A)	OJI-CR 507.53(A)
507.53(B)	OJI-CR 507.53(B)
507.53(C)	OJI-CR 507.53(C)

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507.71 (offenses committed on and after 1/1/97)	OJI-CR 507.71 (offenses committed on and after 1/1/97)
507.72 (offenses committed on and after 1/1/97)	OJI-CR 507.72 (offenses committed on and after 1/1/97)
507.241 (offenses committed before 7/1/96)	OJI-CR 507.241 (offenses committed before 7/1/96)
507.241 (offenses committed on and after 7/1/96)	OJI-CR 507.241 (offenses committed on and after 7/1/96)
507.311	OJI-CR 507.311
507.321 (offenses committed before 7/1/96)	OJI-CR 507.321 (offenses committed before 7/1/96)
507.321 (offenses committed on and after 7/1/96)	OJI-CR 507.321 (offenses committed on and after 7/1/96)
507.322 (offenses committed before 7/1/96)	OJI-CR 507.322 (offenses committed before 7/1/96)
507.322 (offenses committed on and after 7/1/96)	OJI-CR 507.322 (offenses committed on and after 7/1/96)
507.323 (offenses committed before 7/1/96)	OJI-CR 507.323 (offenses committed before 7/1/96)
507.323 (offenses committed on and after 7/1/96)	OJI-CR 507.323 (offenses committed on and after 7/1/96)
509.02 (offenses committed before 7/1/96)	OJI-CR 509.02 (offenses committed before 7/1/96)
509.02 (offenses committed on and after 7/1/96)	OJI-CR 509.02 (offenses committed on and after 7/1/96)
509.03 (offenses committed before 7/1/96)	OJI-CR 509.03 (offenses committed before 7/1/96)
509.03 (offenses committed on and after 7/1/96)	OJI-CR 509.03 (offenses committed on and after 7/1/96)
509.04 (offenses committed before 7/1/96)	OJI-CR 509.04 (offenses committed before 7/1/96)
509.04 (offenses committed on and after 7/1/96)	OJI-CR 509.04 (offenses committed on and after 7/1/96)
509.05(A) (offenses committed before 7/1/96)	OJI-CR 509.05(A) (offenses committed before 7/1/96)
509.05(A) (offenses committed on and after 7/1/96 but before 9/30/98)	OJI-CR 509.05(A) (offenses committed on and after 7/1/96 but before 9/30/98)
509.05(A) (offenses committed on and after 9/30/98)	OJI-CR 509.05(A) (offenses committed on and after 9/30/98)
509.05(B) (offenses committed before 7/1/96)	OJI-CR 509.05(B) (offenses committed before 7/1/96)
509.05(B) (offenses committed on and after 7/1/96 but before 9/30/98)	OJI-CR 509.05(B) (offenses committed on and after 7/1/96 but before 9/30/98)
509.05(B) (offenses committed on and after 9/30/98)	OJI-CR 509.05(B) (offenses committed on and after 9/30/98)
509.05(C) (offenses committed before 7/1/96)	OJI-CR 509.05(C) (offenses committed before 7/1/96)

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509.05(C) (offenses committed on and after 7/1/96 but before 9/30/98)	OJI-CR 509.05(C) (offenses committed on and after 7/1/96 but before 9/30/98)
509.05(C) (offenses committed on and after 9/30/98)	OJI-CR 509.05(C) (offenses committed on and after 9/30/98)
509.05(D) (offenses committed before 7/1/96)	OJI-CR 509.05(D) (offenses committed before 7/1/96)
509.05(D) (offenses committed on and after 7/1/96)	OJI-CR 509.05(D) (offenses committed on and after 7/1/96)
509.06 (offenses committed before 7/1/96)	OJI-CR 509.06 (offenses committed before 7/1/96)
509.06 (offenses committed on and after 7/1/96)	OJI-CR 509.06 (offenses committed on and after 7/1/96)
509.07 (offenses committed before 7/1/96)	OJI-CR 509.07 (offenses committed before 7/1/96)
509.07 (offenses committed on and after 7/1/96)	OJI-CR 509.07 (offenses committed on and after 7/1/96)
509.08 (offenses committed before 7/1/96)	OJI-CR 509.08 (offenses committed before 7/1/96)
509.08 (offenses committed on or after 7/1/96)	OJI-CR 509.08 (offenses committed on or after 7/1/96)
509.22	OJI-CR 509.22
509.23	OJI-CR 509.23
509.24	OJI-CR 509.24
511.01(A)	OJI-CR 511.01(A)
511.01(B)	OJI-CR 511.01(B)
511.02	OJI-CR 511.02
511.11	OJI-CR 511.11
511.12	OJI-CR 511.12
511.13(A)	OJI-CR 511.13(A)
511.13(B)	OJI-CR 511.13(B)
511.21	OJI-CR 511.21
511.23	OJI-CR 511.23
511.31	OJI-CR 511.31
511.32	OJI-CR 511.32
511.211	OJI-CR 511.211
513.02 (offenses committed before 7/1/96)	OJI-CR 513.02 (offenses committed before 7/1/96)
513.02 (offenses committed on and after 7/1/96)	OJI-CR 513.02 (offenses committed on and after 7/1/96)
513.03 (offenses committed before 7/1/96)	OJI-CR 513.03 (offenses committed before 7/1/96)
513.03 (offenses committed on and after 7/1/96)	OJI-CR 513.03 (offenses committed on and after 7/1/96)
513.04 (offenses committed before 7/1/96)	OJI-CR 513.04 (offenses committed before 7/1/96)

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513.04 (offenses committed on and after 7/1/96)	OJI-CR 513.04 (offenses committed on and after 7/1/96)
513.041 (offenses committed on and after 7/1/96)	OJI-CR 513.041 (offenses committed on and after 7/1/96)
513.11 (offenses committed before 7/1/96)	OJI-CR 513.11 (offenses committed before 7/1/96)
513.11 (offenses committed on and after 7/1/96)	OJI-CR 513.11 (offenses committed on and after 7/1/96)
513.21 (offenses committed before 7/1/96)	OJI-CR 513.21 (offenses committed before 7/1/96)
513.21 (offenses committed on and after 7/1/96)	OJI-CR 513.21 (offenses committed on and after 7/1/96)
513.31(A) (offenses committed before 7/1/96)	OJI-CR 513.31(A) (offenses committed before 7/1/96)
513.31(A) (offenses committed on and after 7/1/96)	OJI-CR 513.31(A) (offenses committed on and after 7/1/96)
513.31(B)	OJI-CR 513.31(B)
513.32 (offenses committed before 7/1/96)	OJI-CR 513.32 (offenses committed before 7/1/96)
513.32 (offenses committed on and after 7/1/96)	OJI-CR 513.32 (offenses committed on and after 7/1/96)
513.33 (offenses committed on and after 3/31/97)	OJI-CR 513.33 (offenses committed on and after 3/31/97)
513.34 (offenses committed on and after 3/31/97)	OJI-CR 513.34 (offenses committed on and after 3/31/97)
513.40	OJI-CR 513.40
513.41 (offenses committed before 7/1/96)	OJI-CR 513.41 (offenses committed before 7/1/96)
513.42 (offenses committed before 7/1/96)	OJI-CR 513.42 (offenses committed before 7/1/96)
513.42 (offenses committed on and after 7/1/96)	OJI-CR 513.42 (offenses committed on and after 7/1/96)
513.43 (offenses committed before 7/1/96)	OJI-CR 513.43 (offenses committed before 7/1/96)
513.43 (offenses committed on and after 7/1/96)	OJI-CR 513.43 (offenses committed on and after 7/1/96)
513.44	OJI-CR 513.44
513.45 (offenses committed before 7/1/96)	OJI-CR 513.45 (offenses committed before 7/1/96)
513.45 (offenses committed on and after 7/1/96)	OJI-CR 513.45 (offenses committed on and after 7/1/96)
513.46(A) (offenses committed before 10/29/95)	OJI-CR 513.46(A) (offenses committed before 10/29/95)
513.46(B) (offenses committed before 10/29/95)	OJI-CR 513.46(B) (offenses committed before 10/29/95)
513.46(B) (offenses committed on and after 9/26/96)	OJI-CR 513.46(B) (offenses committed on and after 9/26/96)

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513.46(C) (offenses committed on and after 9/26/96)	OJI-CR 513.46(C) (offenses committed on and after 9/26/96)
513.47 (offenses committed before 7/1/96)	OJI-CR 513.47 (offenses committed before 7/1/96)
513.47 (offenses committed on and after 7/1/96)	OJI-CR 513.47 (offenses committed on and after 7/1/96)
513.48 (offenses committed before 7/1/96)	OJI-CR 513.48 (offenses committed before 7/1/96)
513.48 (offenses committed on and after 7/1/96)	OJI-CR 513.48 (offenses committed on and after 7/1/96)
513.51 (offenses committed before 7/1/96)	OJI-CR 513.51 (offenses committed before 7/1/96)
513.51 (offenses committed on or after 7/1/96)	OJI-CR 513.51 (offenses committed on or after 7/1/96)
513.81 (offenses committed before 7/1/96)	OJI-CR 513.81 (offenses committed before 7/1/96)
513.401	OJI-CR 513.401
515.02	OJI-CR 515.02
515.03	OJI-CR 515.03
515.04	OJI-CR 515.04
515.05	OJI-CR 515.05
515.05(A) (offenses committed before 7/1/96)	OJI-CR 515.05(A) (offenses committed before 7/1/96)
515.05(B) (offenses committed on and after 7/1/96)	OJI-CR 515.05(B) (offenses committed on and after 7/1/96)
515.06 (offenses committed before 7/1/96)	OJI-CR 515.06 (offenses committed before 7/1/96)
515.07	OJI-CR 515.07
515.09	OJI-CR 515.09
515.10(A)	OJI-CR 515.10(A)
515.10(C)	OJI-CR 515.10(C)
515.11	OJI-CR 515.11
515.12 (offenses committed before 7/1/96)	OJI-CR 515.12 (offenses committed before 7/1/96)
517.01	OJI-CR 517.01
517.02(A)	OJI-CR 517.02(A)
517.02(B)	OJI-CR 517.02(B)
517.03	OJI-CR 517.03
517.11(A)	OJI-CR 517.11(A)
517.11(B)	OJI-CR 517.11(B)
517.12	OJI-CR 517.12
517.13	OJI-CR 517.13
517.21(A)	OJI-CR 517.21(A)
517.21(B)	OJI-CR 517.21(B)
517.31	OJI-CR 517.31
517.32	OJI-CR 517.32

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517.40	OJI-CR 517.40
517.41	OJI-CR 517.41
517.47	OJI-CR 517.47
519.01	OJI-CR 519.01
519.12(A)	OJI-CR 519.12(A)
519.12(B)	OJI-CR 519.12(B)
519.13(A)	OJI-CR 519.13(A)
519.13(B)	OJI-CR 519.13(B)
519.14	OJI-CR 519.14
519.21(A)	OJI-CR 519.21(A)
519.21(B)	OJI-CR 519.21(B)
519.22	OJI-CR 519.22
519.23(A)	OJI-CR 519.23(A)
519.23(B)	OJI-CR 519.23(B)
519.24	OJI-CR 519.24
519.24(A)(3) (offenses committed on and after 1/1/02)	OJI-CR 519.24(A)(3) (offenses committed on and after 1/1/02)
519.25	OJI-CR 519.25
519.27	OJI-CR 519.27
519.231	OJI-CR 519.231
521.02	OJI-CR 521.02
521.03 (offenses committed before 9/3/96)	OJI-CR 521.03 (offenses committed before 9/3/96)
521.03 (offenses committed on and after 9/3/96 and before 11/6/96)	OJI-CR 521.03 (offenses committed on and after 9/3/96 and before 11/6/96)
521.03 (offenses committed on and after 11/6/96)	OJI-CR 521.03 (offenses committed on and after 11/6/96)
521.04 (offenses committed before 9/3/96)	OJI-CR 521.04 (offenses committed before 9/3/96)
521.04 (offenses committed on and after 9/3/96)	OJI-CR 521.04 (offenses committed on and after 9/3/96)
521.05	OJI-CR 521.05
521.11	OJI-CR 521.11
521.12	OJI-CR 521.12
521.13 (offenses committed before 7/1/96)	OJI-CR 521.13 (offenses committed before 7/1/96)
521.13 (offenses committed on and after 7/1/96 and before 10/1/97)	OJI-CR 521.13 (offenses committed on and after 7/1/96 and before 10/1/97)
521.13 (offenses committed on and after 10/1/97)	OJI-CR 521.13 (offenses committed on and after 10/1/97)
521.14	OJI-CR 521.14
521.21	OJI-CR 521.21
521.22(A)	OJI-CR 521.22(A)
521.22(B)	OJI-CR 521.22(B)
521.22(C)	OJI-CR 521.22(C)

Previous Instruction Number	New Edition Instruction Number
521.22(D) (offenses committed before 3/18/97)	OJI-CR 521.22(D) (offenses committed before 3/18/97)
521.22(D) (offenses committed on and after 3/18/97)	OJI-CR 521.22(D) (offenses committed on and after 3/18/97)
521.22(E)	OJI-CR 521.22(E)
521.24	OJI-CR 521.24
521.31	OJI-CR 521.31
521.32 (offenses committed before 7/1/96)	OJI-CR 521.32 (offenses committed before 7/1/96)
521.32 (offenses committed on and after 7/1/96 and before 12/31/97)	OJI-CR 521.32 (offenses committed on and after 7/1/96 and before 12/31/97)
521.32 (offenses committed on and after 12/31/97)	OJI-CR 521.32 (offenses committed on and after 12/31/97)
521.321	OJI-CR 521.321
521.33 (offenses committed before 7/1/96)	OJI-CR 521.33 (offenses committed before 7/1/96)
521.33 (offenses committed on and after 7/1/96 but before 9/16/97)	OJI-CR 521.33 (offenses committed on and after 7/1/96 but before 9/16/97)
521.33 (offenses committed on and after 9/16/97)	OJI-CR 521.33 (offenses committed on and after 9/16/97)
521.34(A)(1)	OJI-CR 521.34(A)(1)
521.34(A)(2) (offense committed by sexually violent predator on and after 1/1/97)	OJI-CR 521.34(A)(2) (offense committed by sexually violent predator on and after 1/1/97)
521.35(A)	OJI-CR 521.35(A)
521.35(B)	OJI-CR 521.35(B)
521.36	OJI-CR 521.36
521.38	OJI-CR 521.38 (offenses committed on and after 6/11/97 but before 4/4/07) OJI-CR 521.38 (offenses committed on and after 4/4/07)
521.41	OJI-CR 521.41
521.42	OJI-CR 521.42
521.43(A)	OJI-CR 521.43(A)
521.43(B)	OJI-CR 521.43(B)
521.43(C)	OJI-CR 521.43(C)
521.44(A)	OJI-CR 521.44(A)
521.44(B)	OJI-CR 521.44(B)
521.44(C)	OJI-CR 521.44(C)
521.44(D)	OJI-CR 521.44(D)
521.44(E)	OJI-CR 521.44(E)
521.45	OJI-CR 521.45
521.51(B)	OJI-CR 521.51(B)
521.51(C)	OJI-CR 521.51(C)
521.51(D)	OJI-CR 521.51(D)
521.51(E)	OJI-CR 521.51(E)

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521.52	OJI-CR 521.52
521.331	OJI-CR 521.331
523.01 (offenses committed before 7/1/96)	OJI-CR 523.01 (offenses committed before 7/1/96)
523.01 (offenses committed on and after 7/1/96)	OJI-CR 523.01 (offenses committed on and after 7/1/96)
523.02 (offenses committed before 7/1/96)	OJI-CR 523.02 (offenses committed before 7/1/96)
523.02 (offenses committed on and after 7/1/96)	OJI-CR 523.02 (offenses committed on and after 7/1/96)
523.03 (offenses committed before 7/1/96)	OJI-CR 523.03 (offenses committed before 7/1/96)
523.03 (offenses committed on and after 7/1/96)	OJI-CR 523.03 (offenses committed on and after 7/1/96)
523.12	OJI-CR 523.12
523.13 (offenses committed before 7/1/96)	OJI-CR 523.13 (offenses committed before 7/1/96)
523.13(A) (offenses committed on and after 7/1/96)	OJI-CR 523.13(A) (offenses committed on and after 7/1/96)
523.13(B) (offenses committed on and after 7/1/96)	OJI-CR 523.13(B) (offenses committed on and after 7/1/96)
523.15	OJI-CR 523.15
523.16	OJI-CR 523.16
523.17 (offenses committed before 7/1/96)	OJI-CR 523.17 (offenses committed before 7/1/96)
523.17 (offenses committed on and after 7/1/96)	OJI-CR 523.17 (offenses committed on and after 7/1/96)
523.19	OJI-CR 523.19
523.20 (offenses committed before 7/1/96)	OJI-CR 523.20 (offenses committed before 7/1/96)
523.20 (offenses committed on and after 7/1/96)	OJI-CR 523.20 (offenses committed on and after 7/1/96)
523.21 (offenses committed before 11/9/95)	OJI-CR 523.21 (offenses committed before 11/9/95)
523.21 (offenses committed on and after 11/9/95 but before 7/1/96)	OJI-CR 523.21 (offenses committed on and after 11/9/95 but before 7/1/96)
523.21 (offenses committed on and after 7/1/96)	OJI-CR 523.21 (offenses committed on and after 7/1/96)
523.211(B)	OJI-CR 523.211(B)
523.24 (offenses committed before 7/1/96)	OJI-CR 523.24 (offenses committed before 7/1/96)
523.24 (offenses committed on and after 7/1/96)	OJI-CR 523.24 (offenses committed on and after 7/1/96)
523.32(A)(1)	OJI-CR 523.32(A)(1)
523.32(A)(2)	OJI-CR 523.32(A)(2)
523.32(A)(3)	OJI-CR 523.32(A)(3)

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523.42 (offenses committed on and after 1/1/99)	OJI-CR 523.42 (offenses committed on and after 1/1/99)
523.44	OJI-CR 523.44
523.121 (offenses committed before 7/1/96)	OJI-CR 523.121 (offenses committed before 7/1/96)
523.121 (offenses committed on and after 7/1/96)	OJI-CR 523.121 (offenses committed on and after 7/1/96)
523.122 (offenses committed before 7/1/96)	OJI-CR 523.122 (offenses committed before 7/1/96)
523.122 (offenses committed on and after 7/1/96 but before 3/18/97)	OJI-CR 523.122 (offenses committed on and after 7/1/96 but before 3/18/97)
523.122 (offenses committed on and after 3/18/97 but before 8/6/99)	OJI-CR 523.122 (offenses committed on and after 3/18/97 but before 8/6/99)
523.122 (offenses committed on and after 8/6/99)	OJI-CR 523.122 (offenses committed on and after 8/6/99)
523.123(A)	OJI-CR 523.123(A)
523.123(B)	OJI-CR 523.123(B)
523.131	OJI-CR 523.131
523.161 (offenses committed before 7/1/96)	OJI-CR 523.161 (offenses committed before 7/1/96)
523.161 (offenses committed on and after 7/1/96 but before 8/6/99)	OJI-CR 523.161 (offenses committed on and after 7/1/96 but before 8/6/99)
523.161 (offenses committed on and after 8/6/99)	OJI-CR 523.161 (offenses committed on and after 8/6/99)
525.02 (offenses committed before 7/1/96)	OJI-CR 525.02 (offenses committed before 7/1/96)
525.02 (offenses committed on and after 7/1/96 but before 7/22/98)	OJI-CR 525.02 (offenses committed on and after 7/1/96 but before 7/22/98)
525.02 (offenses committed on and after 7/22/98)	OJI-CR 525.02 (offenses committed on and after 7/22/98)
525.03 (offenses committed before 7/1/96)	OJI-CR 525.03 (offenses committed before 7/1/96)
525.03 (offenses committed on and after 7/1/96 but before 2/13/2001)	OJI-CR 525.03 (offenses committed on and after 7/1/96 but before 2/13/2001)
525.03 (offenses committed on and after 2/13/2001)	OJI-CR 525.03 (offenses committed on and after 2/13/2001)
525.04(offenses committed on and after 7/1/96 but before 8/7/2001)	OJI-CR 525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)
525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)	OJI-CR 525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)
525.041	OJI-CR 525.041
525.05 (offenses committed before 3/23/2000)	OJI-CR 525.05 (offenses committed before 3/23/2000)
525.05 (offenses committed on and after 3/23/2000)	OJI-CR 525.05 (offenses committed on and after 3/23/2000)
525.06	OJI-CR 525.06
525.07	OJI-CR 525.07

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525.09(A) (offenses committed before 7/22/98)	OJI-CR 525.09(A) (offenses committed before 7/22/98)
525.09(A) (offenses committed on and after 7/22/98)	OJI-CR 525.09(A) (offenses committed on and after 7/22/98)
525.09(B)	OJI-CR 525.09(B)
525.11 (offenses committed before 7/1/96)	OJI-CR 525.11(offenses committed before 7/1/96)
525.11 (offenses committed on and after 7/1/96 but before 6/20/97)	OJI-CR 525.11 (offenses committed on and after 7/1/96 but before 6/20/97)
525.11 (offenses committed on and after 6/20/97)	OJI-CR 525.11 (offenses committed on and after 6/20/97)
525.12 (offenses committed before 7/1/96)	OJI-CR 525.12 (offenses committed before 7/1/96)
525.12 (offenses committed on and after 7/1/96)	OJI-CR 525.12 (offenses committed on and after 7/1/96)
525.13 (offenses committed before 7/1/96)	OJI-CR 525.13 (offenses committed before 7/1/96)
525.13 (offenses committed on and after 7/1/96)	OJI-CR 525.13 (offenses committed on and after 7/1/96)
525.14(C) (offenses committed before 7/1/96)	OJI-CR 525.14(C) (offenses committed before 7/1/96)
525.14(C) (offenses committed on and after 7/1/96)	OJI-CR 525.14(C) (offenses committed on and after 7/1/96)
525.22(offenses committed before 7/1/96)	OJI-CR 525.22 (offenses committed before 7/1/96)
525.22(offenses committed on and after 7/1/96)	OJI-CR 525.22(offenses committed on and after 7/1/96)
525.23 (offenses committed before 7/1/96)	OJI-CR 525.23 (offenses committed before 7/1/96)
525.23(offenses committed on and after 7/1/96 but before 7/22/98)	OJI-CR 525.23(offenses committed on and after 7/1/96 but before 7/22/98)
525.23(offenses committed on and after 7/22/98)	OJI-CR 525.23(offenses committed on and after 7/22/98)
525.24	OJI-CR 525.24
525.31(offenses committed before 7/1/96)	OJI-CR 525.31(offenses committed before 7/1/96)
525.31(offenses committed on and after 7/1/96)	OJI-CR 525.31(offenses committed on and after 7/1/96)
525.32 (offenses committed before 7/1/96)	OJI-CR 525.32 (offenses committed before 7/1/96)
525.32(offenses committed on and after 7/1/96 but before 1/1/97)	OJI-CR 525.32(offenses committed on and after 7/1/96 but before 1/1/97)
525.32(offenses committed on and after 1/1/97)	OJI-CR 525.32(offenses committed on and after 1/1/97)
525.33	OJI-CR 525.33
525.36 (offenses committed before 7/1/96)	OJI-CR 525.36 (offenses committed before 7/1/96)

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525.36 (offenses committed on and after 7/1/96)	OJI-CR 525.36 (offenses committed on and after 7/1/96)
525.37(offenses committed before 7/1/96)	OJI-CR 525.37(offenses committed before 7/1/96)
525.37 (offenses committed on and after 7/1/96)	OJI-CR 525.37 (offenses committed on and after 7/1/96)
525.42	OJI-CR 525.42
527.01	OJI-CR 527.01
527.02(B)(1)	OJI-CR 527.02(B)(1)
527.02(B)(2)	OJI-CR 527.02(B)(2)
527.02(B)(3) (offenses committed on and after 3/15/01)	OJI-CR 527.02(B)(3) (offenses committed on and after 3/15/01)
527.02(C)	OJI-CR 527.02(C)
527.03	OJI-CR 527.03
527.11	OJI-CR 527.11
527.12	OJI-CR 527.12
527.13	OJI-CR 527.13
527.21	OJI-CR 527.21
527.24(B)	OJI-CR 527.24(B)
527.24(C)	OJI-CR 527.24(C)
527.27(A) (offenses committed on and after 10/09/01)	OJI-CR 527.27(A) (offenses committed on and after 10/09/01)
527.27(B) (offenses committed on and after 10/09/01)	OJI-CR 527.27(B) (offenses committed on and after 10/09/01)
533.92	OJI-CR 533.92
547.11(A)(1)(offenses committed on and after 1/1/04)	OJI-CR 547.11(A)(1)(offenses committed on and after 1/1/04)
547.11(A)(2)-(6) (offenses committed on and after 1/1/04)	OJI-CR 547.11(A)(2)-(6) (offenses committed on and after 1/1/04)
547.11(B)(offenses committed on and after 1/1/04)	OJI-CR 547.11(B)(offenses committed on and after 1/1/04)
549.01(offenses committed on and after 1/1/04)	OJI-CR 709.01(offenses committed on and after 1/1/04)
549.02	OJI-CR 749.02
549.021	OJI-CR 749.021
549.03	OJI-CR 749.03
549.62(A)	OJI-CR 749.62(A)
549.62(B)	OJI-CR 749.62(B)
549.62(C)	OJI-CR 749.62(C)
549.62(D)	OJI-CR 749.62(D)
550.02 (offenses committed before 7/1/97)	OJI-CR 550.02 (offenses committed before 7/1/97)
550.04 (offenses committed on and after 7/1/97 but before 7/13/030)	OJI-CR 550.04 (offenses committed on and after 7/1/97 but before 7/13/030)
550.04 (offenses committed on and after 7/31/03)	OJI-CR 550.04 (offenses committed on and after 7/31/03)

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550.041 (offenses committed on and after 7/31/04)	OJI-CR 550.041 (offenses committed on and after 7/31/04)
550.05 (offenses committed before 7/1/97)	OJI-CR 550.05 (offenses committed before 7/1/97)
550.05 (offenses committed on and after 7/1/97 but before 7/31/03)	OJI-CR 550.05 (offenses committed on and after 7/1/97 but before 7/31/03)
550.05 (offenses committed on and after 7/31/03 but before 4/29/05)	OJI-CR 550.05 (offenses committed on and after 7/31/03 but before 4/29/05)
550.05 (offenses committed on and after 4/29/05)	OJI-CR 550.05 (offenses committed on and after 4/29/05)
550.06 (offenses committed on and after 7/1/97 but before 7/31/03)	OJI-CR 550.06 (offenses committed on and after 7/1/97 but before 7/31/03)
550.06 (offenses committed on and after 7/31/03)	OJI-CR 550.06 (offenses committed on and after 7/31/03)
551.01	OJI-CR 551.01
551.03	OJI-CR 551.03
551.05	OJI-CR 551.05
551.07	OJI-CR 551.07
551.09	OJI-CR 551.09
551.11	OJI-CR 551.11
555.03	OJI-CR 559.03
710.11(A)(offenses committed before 1/1/04)	OJI-CR 710.11(A)(offenses committed before 1/1/04)
710.11(A) (offenses committed on and after 1/1/04)	OJI-CR 710.11(A) (offenses committed on and after 1/1/04)
710.11(B)(offenses committed before 1/1/04)	OJI-CR 710.11(B)(offenses committed before 1/1/04)
710.11(B) (offenses committed on and after 1/1/04)	OJI-CR 710.11(B) (offenses committed on and after 1/1/04)
710.12(A)(1)(a)(offenses committed before 1/1/04)	OJI-CR 710.12(A)(1)(a)(offenses committed before 1/1/04)
710.12(A)(1)(a) (offenses committed on and after 6/1/04)	OJI-CR 710.12(A)(1)(a) (offenses committed on and after 6/1/04)
710.12(A)(1)(b) (offenses committed before 1/1/04)	OJI-CR 710.12(A)(1)(b) (offenses committed before 1/1/04)
710.12(A)(1)(b) (offenses committed on and after 1/1/04)	OJI-CR 710.12(A)(1)(b) (offenses committed on and after 1/1/04)
710.12(A)(2) (offenses committed before 1/1/04)	OJI-CR 710.12(A)(2) (offenses committed before 1/1/04)
710.12(A)(2)(offenses committed on and after 1/1/04)	OJI-CR 710.12(A)(2)(offenses committed on and after 1/1/04)
710.16(offenses committed before 1/1/04)	OJI-CR 710.16(offenses committed before 1/1/04)
710.16 (offenses committed before 1/1/04)	OJI-CR 710.16 (offenses committed before 1/1/04)
710.21 (offenses committed before 1/1/04)	OJI-CR 710.21 (offenses committed before 1/1/04)

Previous Instruction Number	New Edition Instruction Number
710.21(offenses committed on and after 1/1/04)	OJI-CR 710.21(offenses committed on and after 1/1/04)
711.19 (offenses committed before 1/1/04)	OJI-CR 711.19 (offenses committed before 1/1/04)
711.19 (offenses committed on and after 1/1/04 but before 6/1/04)	OJI-CR 711.19 (offenses committed on and after 1/1/04 but before 6/1/04)
711.19(offenses committed on and after 6/1/04)	OJI-CR 711.19(offenses committed on and after 6/1/04)
711.19(A) (offenses committed before 6/30/03)	OJI-CR 711.19(A) (offenses committed before 6/30/03)
711.19(A)(offenses committed on and after 6/30/03 but before 1/1/04)	OJI-CR 711.19(A)(offenses committed on and after 6/30/03 but before 1/1/04)
711.19(A)(offenses committed on and after 1/1/04 but before 6/1/04)	OJI-CR 711.19(A)(offenses committed on and after 1/1/04 but before 6/1/04)
711.19(A)(offenses committed on and after 6/1/04)	OJI-CR 711.19(A)(offenses committed on and after 6/1/04)
711.19(A)(1)(b)-(j) (offenses committed on and after 8/17/06)	711.19(A)(1)(b)-(j) (offenses committed on and after 8/17/06)
711.19(A)(2) (offenses committed on and after 9/23/04)	OJI-CR 711.19(A)(2) (offenses committed on and after 9/23/04)
711.19(B) (offenses committed before 6/30/03)	OJI-CR 711.19(B) (offenses committed before 6/30/03)
711.19(B) (offenses committed on and after 6/30/03 but before 1/1/04)	OJI-CR 711.19(B) (offenses committed on and after 6/30/03 but before 1/1/04)
711.19(B) (offenses committed on and after 1/1/04 but before 6/1/04)	OJI-CR 711.19(B) (offenses committed on and after 1/1/04 but before 6/1/04)
711.19(B)(offenses committed on and after 6/1/04)	OJI-CR 711.19(B)(offenses committed on and after 6/1/04)
711.194	OJI-CR 711.194
711.203 (offenses committed before 1/1/04)	OJI-CR 711.203 (offenses committed before 1/1/04)
711.203 (offenses committed on and after 1/1/04)	OJI-CR 711.203 (offenses committed on and after 1/1/04)

Chapter CR 509

ARSON AND RELATED OFFENSES

- CR 509.02 Aggravated arson (offenses committed before 7/1/96)
- CR 509.02 Aggravated arson (offenses committed on and after 7/1/96)
- CR 509.03A Arson (offenses committed on and after 7/1/96)
- CR 509.03B Arson R.C. 2909.03(B) (offenses committed on and after 3/21/17) [Rev. 5/6/17]
- CR 509.04 Disrupting public services (offenses committed on and after 7/1/96 but before 9/23/04) [Rev. 12/5/15]
- CR 509.04 Disrupting public services R.C. 2909.04 (offenses committed on and after 9/23/04) [Rev. 12/5/15]
- CR 509.05(A) Vandalism—occupied structure R.C. 2909.05(A) (offenses committed on and after 9/30/11) [Rev. 12/7/19]
- CR 509.05(B) Vandalism—property R.C. 2909.05(B) (offenses committed on and after 9/30/11) [Rev. 12/7/19]
- CR 509.05(C) Vandalism—cemeteries R.C. 2909.05(C) (offenses committed on and after 9/30/11) [Rev. 12/7/19]
- CR 509.05(D) Vandalism—breaking and entering a place of burial R.C. 2909.05(D) (offenses committed on and after 9/30/11) [Rev. 12/7/19]
- CR 509.06 Criminal damaging or endangering (offenses committed on and after 7/1/96)
- CR 509.07 Criminal mischief R.C. 2909.07 (offenses committed on and after 9/23/04 but before 9/28/16) [Rev. 11/7/20]
- CR 509.07 Criminal mischief R.C. 2909.07 (offenses committed on and after 9/28/16) [Rev. 11/7/20]
- CR 509.08 Endangering aircraft-airport operations R.C. 2909.08 (offenses committed on or after 7/1/96)
- CR 509.15 Failure to register or reregister as an arson offender R.C. 2909.15 (offenses committed on and after 7/1/13) [Rev. 5/7/16]
- CR 509.22 Soliciting or providing support for terrorism R.C. 2909.22 [Rev. 2/26/22]
- CR 509.23 Making a terroristic threat [Rev. 3-17-12]
- CR 509.24 Terrorism [Rev. 3-17-12]
- CR 509.26 Criminal possession of chemical weapon, biological weapon, radiological or nuclear weapon or explosive device [Rev. 5-4-13]
- CR 509.27 Criminal use of chemical weapon, biological weapon, radiological or nuclear weapon or explosive device [Rev. 5-4-13]
- CR 509.28 Illegal assembly or possession of chemicals or substances for the manufacture of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device R.C. 2909.28 (offenses committed on and after 9/10/12) [Rev. 8/5/15]

CR 509.29 Money laundering in support of terrorism R.C. 2909.29 [Rev. 2/26/22]

CR 509.101 CR 509.101 Railroad grade crossing device vandalism R.C. 2909.101 (offenses committed on and after 4/9/03) [Rev. 2/6/16]

CR 509.02 Aggravated arson R.C. 2909.02 (offenses committed before 7/1/96)

1. The defendant is charged with aggravated arson. Before you can find the defendant guilty you must find beyond a reasonable doubt, that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant by means of (fire) (explosion) knowingly

(Use appropriate alternative)

(A)(1) Created a substantial risk of serious physical harm to some person

(A)(2) Caused physical harm to an occupied structure

(A)(3) Created through the (offer) (acceptance) of (an agreement for hire) (*describe other consideration*) a substantial risk of (serious physical harm to some person) (physical harm to an occupied structure).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. SUBSTANTIAL RISK. "Substantial risk" means a strong possibility as contrasted with a remote or (even a) significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(8). The Committee is of the opinion that the use of the phrase "remote or significant possibility" in this definition may be confusing, but that the phrase can only be explained by assuming that the language chosen by the General Assembly contemplates three degrees of "possibility": the highest degree is "strong," the middle is "significant," and the lowest is "remote." For this reason, the Committee added "(even a)" to the statutory definition.

4. SERIOUS PHYSICAL HARM TO PERSONS. OJI-CR 503.11(A) § 4; R.C. 2901.01(A)(5).

5. CAUSATION. OJI-CR 417.23.

6. PHYSICAL HARM TO PROPERTY. "Physical harm to property" means any tangible damage to property which, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01(A)(4).

7. OCCUPIED STRUCTURE. "Occupied structure" means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof,

(Use appropriate alternative)

(A) which is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied, and whether or not any person is actually present.

(or)

(B) which at the time is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present.

(or)

(C) which at the time is specially adapted for the overnight accommodation of any person, whether or not any person is actually present.

(or)

(D) in which at the time any person is present or likely to be present.

COMMENT

Drawn from R.C. 2909.01(C).

8. ADDITIONAL FINDINGS:

PHYSICAL HARM. OJI-CR 425.21; R.C. 2941.143.

PRIOR CONVICTION. OJI-CR 425.15; R.C. 2941.143.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.02 Aggravated arson R.C. 2909.02 (offenses committed on and after 7/1/96)

1. The defendant is charged with aggravated arson. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant, by means of (fire) (explosion), knowingly

(Use appropriate alternative[s])

(A)(1) created a substantial risk of serious physical harm to any person other than himself/herself.

(or)

(A)(2) caused physical harm to any occupied structure.

(or)

(A)(3) created, through the (offer) (acceptance) of (an agreement for hire) (*describe other consideration*), a substantial risk of physical harm to any occupied structure.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. SUBSTANTIAL RISK. “Substantial risk” means a strong possibility as contrasted with a remote or (even a) significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(8). The Committee believes that the use of the phrase “remote or significant possibility” in this definitions may be confusing, but the phrase can only be explained by assuming that the language chosen by the General Assembly contemplates three degrees of “possibility”: the highest is “strong,” the middle is “significant,” and the lowest is “remote.” For this reason, the Committee added “(even a)” to the statutory definition.

4. SERIOUS PHYSICAL HARM TO PERSONS. OJI-CR 503.11(A) § 4; R.C. 2901.01(A)(5).

5. CAUSATION. OJI-CR 417.23.

6. PHYSICAL HARM TO PROPERTY. “Physical harm to property” means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. “Physical harm to property” does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2909.01(A)(4).

7. OCCUPIED STRUCTURE. “Occupied structure” means any house, building, outbuilding, watercraft, aircraft, railroad car, truck, trailer, tent, or other structure, vehicle, or shelter, or any portion thereof,

(Use appropriate alternative)

(A) which is maintained as a permanent or temporary dwelling, even though it is temporarily unoccupied and whether or not any person is actually present.

(or)

(B) which at the time is occupied as the permanent or temporary habitation of any person, whether or not any person is actually present.

(or)

(C) which at the time is specially adapted for the overnight accommodation of any person, whether or not any person is actually present.

(or)

(D) in which at the time any person is present or likely to be present.

COMMENT

Drawn from R.C. 2909.01(C).

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.03(A) Arson R.C. 2909.03 (offenses committed on and after 7/1/96)

1. The defendant is charged with arson. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, by means of (fire) (explosion), knowingly (caused) (created a substantial risk of) physical harm to

(Use appropriate alternative[s])

(A)(1) any property of another without the other person's consent.

(or)

(A)(2) any property of (the defendant) (another) with purpose to defraud.

(or)

(A)(3) (the statehouse) (a courthouse) (a school building) (*describe other structure*) that is owned or controlled by (the state) (*describe political subdivision*) (*describe department, agency, or instrumentality of the state or political subdivision*), and that is used for public purposes.

(or)

(A)(4) any property of (another without his consent) ([the defendant] [another] with purpose to defraud), through the (offer) (acceptance) of (an agreement for hire) (*describe other consideration*).

(or)

(A)(5) any (park) (preserve) (wildlands) (brush-covered land) (cut-over land) (forest) (timberland) (greenlands) (woods) (*describe other similar real property*) that is (owned) (controlled) by (another person) (the state) (*describe political subdivision*) without the consent of the (other person) (state) (*describe political subdivision*).

(or)

(A)(6) any (park) (preserve) (wildlands) (brush-covered land) (cut-over land) (forest) (timberland) (greenlands) (woods) (*describe other similar real property*) that is (owned) (controlled) by (the defendant) (another person) (the state) (*describe political subdivision*), with purpose to defraud.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. SUBSTANTIAL RISK. “Substantial risk” means a strong possibility as contrasted with a remote or (even a) significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(8). The Committee believes that the use of the phrase “remote or significant possibility” in this definition may be confusing, but the phrase can only be explained by assuming that the language chosen by the General Assembly contemplates three degrees of “possibility”: the highest degree is “strong,” the middle is “significant,” and the lowest is “remote.” For this reason, the Committee added “(even a)” to the statutory definition.

4. PHYSICAL HARM TO PROPERTY. “Physical harm to property” means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. “Physical harm to property” does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01(A)(4).

5. PROPERTY. “Property” means any property, real or personal, tangible or intangible, and any interest or license in such property.

COMMENT

R.C. 2901.01(A)(10)(a).

6. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

7. DEFRAUD. “Defraud” means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B).

8. ADDITIONAL FINDING:

VALUE. OJI-CR 425.23; R.C. 2909.11.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.03(B) Arson R.C. 2909.03(B) (offenses committed on and after 3/21/17) [Rev. 5/6/17]

1. The defendant is charged with arson. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, by means of (fire) (explosion), knowingly (caused) (created a substantial risk of) physical harm to a structure

(Use appropriate alternative[s])

(B)(1) of another that was not an occupied structure;

(or)

(B)(2) of another that was not an occupied structure through the offer or the acceptance of an agreement for hire or other consideration;

(or)

(B)(3) that was not an occupied structure that was (in) (on) a (park) (preserve) (wildlands) (brush-covered land) (cut- over land) (forest) (timberland) (greenlands) (woods) (*describe similar real property*) that was (owned) (controlled) by (another person) (the state) (*describe other political subdivision*).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. CAUSED. OJI-CR 417.23.

4. SUBSTANTIAL RISK. "Substantial risk" means a strong possibility, as contrasted with a remote or (even a) significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(8). The Committee believes that the use of the phrase remote or significant possibility in this definition may be confusing, but the phrase can only be explained by assuming that the language chosen by the General Assembly contemplates three degrees of possibility: the highest degree is strong, the middle is significant, and the lowest is remote. For this reason, the Committee added "(even a)" to the statutory definition.

5. **PHYSICAL HARM TO PROPERTY.** "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. Physical harm to property does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01.

6. **OCCUPIED STRUCTURE.** R.C. 2909.01.

7. **AFFIRMATIVE DEFENSE:**

(A) **GENERAL.** OJI-CR 417.27.

(B) **CONSENT.** The defendant claims he/she had the consent of the (other person) (the state) (*describe the political subdivision*).

COMMENT

R.C. 2909.09(C).

8. **ADDITIONAL FINDING:**

(A) **VALUE.** OJI-CR 425.23; R.C. 2909.03, R.C. 2909.11.

9. **CONCLUSION.** OJI-CR 425.01.

10. **CONCLUSION WITH AFFIRMATIVE DEFENSE.** OJI-CR 425.03.

11. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

CR 509.04 Disrupting public services R.C. 2909.04 (offenses committed on and after 7/1/96 but before 9/23/04) [Rev. 12/5/15]

1. The defendant is charged with disrupting public services. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant (purposely by any means) (knowingly by damaging or tampering with any property)

(Use appropriate alternative[s])

(A)(1) interrupted or impaired (television) (radio) (telephone) (telegraph) (*describe other mass communications service*) (police) (fire) (*describe other public service communications*) (radar) (loran) (*describe other electronic aids to air or marine navigation or communications*) (amateur radio communications) (citizens band radio communications) being used for public service or emergency communications.

(or)

(A)(2) interrupted or impaired (school bus transportation) (*describe other type of public transportation*) (public [water supply] [gas] [power] [*describe other utility*] service).

(or)

(A)(3) substantially impaired the ability of (law enforcement officers) (firemen) (rescue personnel) to (respond to an emergency) (protect and preserve any person or property from serious physical harm).

2. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. LAW ENFORCEMENT OFFICER. R.C. 2901.01(A)(11).
5. SERIOUS PHYSICAL HARM TO PERSONS. R.C. 2901.01(A)(5).
6. SERIOUS PHYSICAL HARM TO PROPERTY. R.C. 2901.01(A)(6).
7. PROPERTY. "Property" means any property, real or personal, tangible or intangible, and any interest or license in such property.

COMMENT

Drawn from R.C. 2901.01(A)(10)(a).

8. ADDITIONAL FINDINGS:
 PHYSICAL HARM. OJI-CR 425.21; R.C. 2941.143.
 PRIOR CONVICTION. OJI-CR 425.15; R.C. 2941.143.
9. CONCLUSION. OJI-CR 425.01.
10. CONCLUSION WITH LESSER INCLUDED OFFENSES. OJI-CR 425.09, OJI-CR 425.11.

CR 509.04 Disrupting public services R.C. 2909.04 (offenses committed on and after 9/23/04) [Rev. 12/5/15]

1. The defendant is charged with disrupting public services. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County (*other jurisdiction*), Ohio, the defendant

(*Use appropriate alternative[s]*)

(A)(1) (purposely by any means) (knowingly by damaging or tampering with any property) interrupted or impaired ([television] [radio] [telephone] [telegraph] [*describe other type of mass communication*] service) ([police] [fire] [*describe other type of public service*] communications) (a [radar] [loran] [*describe other electronic*

aid] aid to air or marine navigation or communications) ([amateur] [citizens band] radio communications) being used for public service or emergency communications;

(or)

(A)(2) (purposely by any means) (knowingly by damaging or tampering with any property) interrupted or impaired (school bus transportation) (*describe other type of public transportation*) (public [water supply] [gas] [power] [*describe other utility*] service);

(or)

(A)(3) (purposely by any means) (knowingly by damaging or tampering with any property) substantially impaired the ability of (law enforcement officers) (firefighters) (rescue personnel) (emergency medical services personnel) (emergency facility personnel) to (respond to an emergency) (protect and preserve any person or property from serious physical harm);

(or)

(B) knowingly used (a [computer] [computer system] [computer network] [telecommunications device] [*describe other electronic device or system*]) (the internet) to (disrupt) (interrupt) (impair) the functions of (police) (fire) (educational) (commercial) (governmental) operations.

2. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. LAW ENFORCEMENT OFFICER. R.C. 2901.01.
5. EMERGENCY MEDICAL SERVICES PERSONNEL. R.C. 2909.04(D)(1); R.C. 2133.21.
6. EMERGENCY FACILITY PERSONNEL. R.C. 2909.04(D)(2).
7. EMERGENCY FACILITY. “Emergency facility” means a hospital emergency department or any other facility that provides emergency medical services.

COMMENT

R.C. 2909.04(D)(3).

8. HOSPITAL. R.C. 2909.04(D)(4); R.C. 3727.01.
9. HEALTH CARE WORKER. R.C. 2909.04(D)(5).
10. SERIOUS PHYSICAL HARM TO PERSONS. R.C. 2901.01.
11. SERIOUS PHYSICAL HARM TO PROPERTY. R.C. 2901.01.
12. PROPERTY. “Property” means any property, real or personal, tangible or intangible, and any interest or license in such property.

COMMENT

Drawn from R.C. 2901.01.

13. COMPUTER. R.C. 2909.01; R.C. 2913.01.
14. COMPUTER SYSTEM. R.C. 2909.01; R.C. 2913.01.
15. COMPUTER NETWORK. R.C. 2909.01; R.C. 2913.01.
16. TELECOMMUNICATIONS DEVICE. R.C. 2909.01; R.C. 2913.01.
17. INTERNET. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

COMMENT

R.C. 1.59.

R.C. 2909.01(G) provides that "internet" has the same meaning as in R.C. 341.42. Because R.C. 341.42 does not define "internet," the Committee believes that the default definition contained in R.C. 1.59 applies.

18. ADDITIONAL FINDING:
 - (A) PHYSICAL HARM. OJI-CR 425.21; R.C. 2941.143.
19. CONCLUSION. OJI-CR 425.01.
20. CONCLUSION WITH LESSER INCLUDED OFFENSES. OJI-CR 425.09, OJI-CR 425.11.

CR 509.05(A) Vandalism—occupied structure R.C. 2909.05(A) (offenses committed on and after 9/30/11) [Rev. 12/7/19]

1. The defendant is charged with vandalism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly caused serious physical harm to an occupied structure or any of its contents.
2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. CAUSATION. OJI-CR 417.23, OJI-CR 417.25.
4. PHYSICAL HARM TO PROPERTY. "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01.

5. **SERIOUS PHYSICAL HARM.** “Serious physical harm” means physical harm to property that results in loss to the value of the property of one thousand dollars or more.

COMMENT

R.C. 2909.05(F)(2).

6. **OCCUPIED STRUCTURE.** R.C. 2909.01.

7. **ADDITIONAL FINDING:**

(A) **VALUE.** OJI-CR 425.23; R.C. 2909.11.

COMMENT

The amount of physical harm involved must equal or exceed \$1,000 as an element of the offense of vandalism under R.C. 2909.05(A). If the value is less than \$1,000, it is not a violation of R.C. 2909.05(A).

8. **CONCLUSION.** OJI-CR 425.01.

9. **CONCLUSION WITH LESSER INCLUDED OFFENSES.** OJI-CR 425.09, OJI-CR 425.11.

10. **GENERAL VERDICT FORM.** OJI-CR 425.33.

11. **ADDITIONAL FINDING VERDICT FORM.**

We, the jury, having found the defendant guilty of vandalism, further find beyond a reasonable doubt that the amount of physical harm was * _____.

* Insert in ink:

(Use appropriate alternative)

(1) “\$1,000 or more but less than \$7,500”

(or)

(2) “\$7,500 or more but less than \$150,000”

(or)

(3) “\$150,000 or more”

CR 509.05(B) Vandalism—property R.C. 2909.05(B) (offenses committed on and after 9/30/11) [Rev. 12/7/19]

1. The defendant is charged with vandalism. Before you can find the defendant guilty,

you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly caused

(Use appropriate alternative)

(B)(1) physical harm to property (owned) (possessed) by another and

(Use appropriate alternative)

COMMENT

These two alternatives apply only to R.C. 2909.05(B)(1).

(a) the (owner) (possessor) used the property in his/her/its (profession) (business) (trade) (occupation) and the (value of the property) (amount of physical harm involved) is one thousand dollars or more.

(or)

(b) regardless of the (value of the property) (amount of damage done to the property), the property or its equivalent was necessary for its (owner) (possessor) to engage in his/her/its (profession) (business) (trade) (occupation).

(or)

(B)(2) serious physical harm to property that is (owned) (leased) (controlled) by a *governmental entity*.

COMMENT

R.C. 2909.05(B)(2).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. CAUSATION. OJI-CR 417.23, OJI-CR 417.25.

4. PHYSICAL HARM TO PROPERTY. "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01.

5. SERIOUS PHYSICAL HARM TO PROPERTY. "Serious physical harm" means

physical harm to property that results in loss to the value of the property of one thousand dollars or more.

COMMENT

R.C. 2909.05(F)(2).

6. GOVERNMENTAL ENTITY. R.C. 2909.05(B)(2).

7. ADDITIONAL FINDING:

(A) VALUE. OJI-CR 425.23; R.C. 2909.11.

COMMENT

The amount of physical harm involved must equal or exceed \$1,000 as an element of the offense of vandalism under R.C. 2909.05(B)(2). If the value is less than \$1,000, it is not a violation of R.C. 2909.05(B)(2).

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

10. ADDITIONAL FINDING VERDICT FORM.

We, the jury, having found the defendant guilty of vandalism, further find beyond a reasonable doubt that the (value of the property) (amount of physical harm) was *

* Insert in ink:

(Use appropriate alternative)

(1) "less than \$7,500"

(or)

(2) "\$7,500 or more but less than \$150,000"

(or)

(3) "\$150,000 or more"

CR 509.05(C) Vandalism—cemeteries R.C. 2909.05(C)(offenses committed on and after 9/30/11) [Rev. 12/7/19]

1. The defendant is charged with vandalism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant, without privilege to do so, knowingly caused serious physical harm to

(Use appropriate alternative[s])

(A) any (tomb) (monument) (gravestone) (*describe other similar structure*) used as a memorial for the dead;

(or)

(B) any (fence) (railing) (curb) (*describe other property*) used to (protect) (enclose) (ornament) any cemetery;

(or)

(C) a cemetery.

2. PRIVILEGE. "Privilege" means an immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

COMMENT

R.C. 2901.01.

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

4. CAUSATION. OJI-CR 417.23, OJI-CR 417.25.

5. PHYSICAL HARM TO PROPERTY. "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01.

6. SERIOUS PHYSICAL HARM. "Serious physical harm" means physical harm to property that results in loss to the value of the property of one thousand dollars or more.

COMMENT

R.C. 2909.05(F)(2).

7. CEMETERY. R.C. 2909.05(F)(1).

8. ADDITIONAL FINDINGS:

(A) VALUE. OJI-CR 425.23; R.C. 2909.11.

COMMENT

The amount of physical harm involved must equal or exceed \$1,000 as an

element of the offense of vandalism under R.C. 2909.05(C). If the value is less than \$1,000, it is not a violation of R.C. 2909.05(C).

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

11. GENERAL VERDICT FORM. OJI-CR 425.33.

12. ADDITIONAL FINDING VERDICT FORM.

We, the jury, having found the defendant guilty of vandalism, further find beyond a reasonable doubt that the amount of physical harm was * _____.

* Insert in ink:

(Use appropriate alternative)

(1) "\$1,000 or more but less than \$7,500"

(or)

(2) "\$7,500 or more but less than \$150,000"

(or)

(3) "\$150,000 or more"

CR 509.05(D) Vandalism—breaking and entering a place of burial R.C.

2909.05(D) (offenses committed on and after 9/30/11) [Rev. 12/7/19]

1. The defendant is charged with vandalism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, without privilege to do so, knowingly caused physical harm to a place of burial by breaking and entering into a (tomb) (crypt) (casket) (*describe structure that is used as a memorial or enclosure for the dead*).

2. PRIVILEGE. "Privilege" means an immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

COMMENT

R.C. 2901.01.

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

4. CAUSATION. OJI-CR 417.23, OJI-CR 417.25.

5. PHYSICAL HARM TO PROPERTY. "Physical harm to property" means any

tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01(A)(4).

6. BREAKING AND ENTERING.

COMMENT

The Committee believes that no definition of "breaking and entering" is required. The terms "breaking and entering" as used in this section are not synonymous with the offense of "breaking and entering." R.C. 2909.05 (Vandalism) and R.C. 2911.13 (Breaking and entering) are not allied offenses. *State v. Wainwright*, 8th Dist. Cuyahoga No. 101210, 2015-Ohio-677; *State v. Shepherd*, 2d Dist. Montgomery No. 24656, 2012-Ohio-736; *State v. Parker*, 183 Ohio App. 3d 431, 2009-Ohio-3667 (3d Dist).

7. ADDITIONAL FINDING:

(A) VALUE. OJI-CR 425.23; R.C. 2909.11.

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

10. GENERAL VERDICT FORM. OJI-CR 425.33.

11. ADDITIONAL FINDING VERDICT FORM.

We, the jury, having found the defendant guilty of vandalism, further find beyond a reasonable doubt that the amount of physical harm was * _____.

* Insert in ink:

(Use appropriate alternative)

(1) "less than \$7,500"

(or)

(2) "\$7,500 or more but less than \$150,000"

(or)

(3) "\$150,000 or more"

CR 509.06 Criminal damaging or endangering R.C. 2909.06 (offenses committed on and after 7/1/96)

1. The defendant is charged with criminal damaging or endangering. Before you can

find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A)(1) knowingly, by any means, (caused) (created a substantial risk of) physical harm to property of (insert name of other person), without his/her/its consent.

(or)

(A)(2) recklessly, by means of (fire) (explosion) (flood) (poison gas) (poison) (radio active material) (caustic material) (corrosive material) (describe other inherently dangerous agency or substance), (caused) (created a substantial risk of) physical harm to property of (insert name of other person), without his/her/its consent.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. RECKLESSLY. OJI-CR 417.17; R.C. 2901.22(C).

4. CAUSATION. OJI-CR 417.23.

5. SUBSTANTIAL RISK. “Substantial risk” means a strong possibility as contrasted with a remote or (even a) significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(8). The Committee believes that the use of the phrase “remote or significant possibility” in this definition may be confusing, but that phrase can only be explained by assuming that the language chosen by the General Assembly contemplates three degrees of “possibility”: the highest degree is “strong”, the middle is “significant”, and the lowest is “remote”. For this reason, the Committee added (even a) to the statutory definition.

6. PHYSICAL HARM TO PROPERTY. “Physical harm to property” means any tangible damage to property which, in any degree, results in loss of its value or interferes with its use or enjoyment. Physical harm to property does not include wear and tear occasioned by normal use.

COMMENT

R.C. 2901.01(A)(4).

7. PROPERTY. “Property” means any property, real or personal, tangible or intangible, and any interest or license in such property.

COMMENT

Drawn from R.C. 2901.01(A)(10)(a).

8. ADDITIONAL FINDINGS:

SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2909.06(B).

SPECIAL FINDINGS. OJI-CR 425.25; R.C. 2909.06(B).

9. RISK. "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(7).

10. PHYSICAL HARM TO PERSONS. "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

COMMENT

R.C. 2901.01(A)(3).

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.07 Criminal mischief R.C. 2909.07 (offenses committed on and after 9/23/04 but before 9/28/16) [Rev. 11/7/20]

1. The defendant is charged with criminal mischief. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant,

(Use appropriate alternative)

(A)(1) without privilege to do so, knowingly (moved) (defaced) (damaged) (destroyed) (improperly tampered with) the property of another.

(or)

(A)(2) with purpose to interfere with the (use) (enjoyment) of the property of another, employed a (tear gas device) (stink bomb) (smoke generator) (device that released a substance that was harmful or offensive to persons exposed or that tended to cause public alarm).

(or)

(A)(3) without privilege to do so, knowingly (moved) (defaced) (damaged) (destroyed) (improperly tampered with) a (bench mark) (triangulation station) (boundary marker) (survey [station] [monument] [marker]).

(or)

(A)(4) without privilege to do so, knowingly (moved) (defaced) (damaged) (destroyed) (improperly tampered with) any safety device or property, regardless of who owned it, that was (required) (placed) for the safety of others, so as to (destroy) (diminish) its (effectiveness) (availability) for its intended purpose.

(or)

(A)(5) with purpose to interfere with the (use) (enjoyment) of property of another, (set a fire) (placed personal property that had been set on fire) on the land of another, with the (fire) (personal property) having been (outside) (apart) from any (building) (structure) (personal property) that was on that land.

(or)

(A)(6) without privilege to do so, and with the intent to impair the functioning of a (computer) (computer [system] [network] [software] [program]), knowingly

(Use appropriate alternative[s])

(1) and in any manner or by any means, including but not limited to computer hacking, (altered) (damaged) (destroyed) (modified) a/any (computer) (computer [system] [network] [software] [program]) (data contained in a [computer] [computer (system) (network) (software) (program)]);

(or)

(2) introduced a computer contaminant into a (computer) (computer [system] [network] [software] [program]).

2. PRIVILEGE. “Privilege” means an immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

COMMENT

R.C. 2901.01.

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

4. TAMPER. “Tamper” means to change either the physical location or physical condition of property.

COMMENT

Drawn from *State v. Collier*, 2d Dist. Montgomery No. 22686, 2010-Ohio-4039.

5. **PROPERTY.** “Property” means any property, real or personal, tangible or intangible, and any interest or license in such property.

COMMENT

Drawn from R.C. 2901.01.

6. **PURPOSELY.** OJI-CR 417.01; R.C. 2901.22(A).

7. **SAFETY DEVICE.** R.C. 2909.07.

8. **COMPUTER.** R.C. 2909.01, R.C. 2913.01.

9. **COMPUTER SYSTEM.** R.C. 2909.01, R.C. 2913.01.

10. **COMPUTER NETWORK.** R.C. 2909.01, R.C. 2913.01.

11. **COMPUTER SOFTWARE.**

“Computer software” means computer programs, procedures, and other documentation associated with the operation of a computer system.

COMMENT

R.C. 2909.01, R.C. 2913.01.

12. **COMPUTER PROGRAM.**

“Computer program” means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

COMMENT

R.C. 2909.01, R.C. 2913.01.

13. **COMPUTER HACKING.** R.C. 2909.01, R.C. 2913.01.

14. **DATA.** R.C. 2909.01, R.C. 2913.01.

15. **COMPUTER CONTAMINANT.** R.C. 2909.01.

16. **ADDITIONAL FINDINGS:**

(A) **SPECIAL PROPERTY.** OJI-CR 425.23; R.C. 2909.07(C).

(B) **SPECIAL FINDINGS.** OJI-CR 425.25; R.C. 2909.07(C).

17. **RISK.** “Risk” means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01.

18. **PHYSICAL HARM TO PERSONS.** “Physical harm to persons” means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

COMMENT

R.C. 2901.01.

19. **CONCLUSION.** OJI-CR 425.01.

20. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

21. **VERDICT FORM.** We, the jury, having found the defendant guilty of criminal mischief, further find beyond a reasonable doubt that the (value of the [computer] [computer (system) (network) (software) (program)]) (resulting loss to the victim) was
* _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) “less than \$1,000”

(or)

(2) “\$1,000 or more and less than \$10,000”

(or)

(3) “\$10,000 or more”

COMMENT

The determination of value is limited to a violation of R.C. 2909.07(A)(6). It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense.

CR 509.07 Criminal mischief R.C. 2909.07 (offenses committed on and after 9/28/16) [Rev. 11/7/20]

1. The defendant is charged with criminal mischief. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant,

(Use appropriate alternative)

(A)(1) without privilege to do so, knowingly (moved) (defaced) (damaged) (destroyed) (improperly tampered with)

(Use appropriate alternative)

(a) the property of another.

(or)

(b) his/her own residential real property with the purpose to decrease the (value) (enjoyment) of the residential real property when the residential real property was subject to a mortgage and he/she had been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property.

(or)

(A)(2) with purpose to interfere with the (use) (enjoyment) of the property of another, employed a (tear gas device) (stink bomb) (smoke generator) (device that released a substance that was harmful or offensive to persons exposed or that tended to cause public alarm).

(or)

(A)(3) without privilege to do so, knowingly (moved) (defaced) (damaged) (destroyed) (improperly tampered with) a (bench mark) (triangulation station) (boundary marker) (survey [station] [monument] [marker]).

(or)

(A)(4) without privilege to do so, knowingly (moved) (defaced) (damaged) (destroyed) (improperly tampered with) any safety device or property, regardless of who owned it, that was (required) (placed) for the safety of others, so as to (destroy) (diminish) its (effectiveness) (availability) for its intended purpose.

(or)

(A)(5) with purpose to interfere with the (use) (enjoyment) of property of another, (set a fire) (placed personal property that had been set on fire) on the land of another, with the (fire) (personal property) having been (outside) (apart) from any (building) (structure) (personal property) that was on that land.

(or)

(A)(6) without privilege to do so, and with the intent to impair the functioning of a (computer) (computer [system] [network] [software] [program]), knowingly

(Use appropriate alternative[s])

(a) and in any manner or by any means, including but not limited to computer hacking, (altered) (damaged) (destroyed) (modified) a/any (computer) (computer [system] [network] [software] [program]) (data contained in a [computer] [com-

puter (system) (network) (software) (program)]);

(or)

(b) introduced a computer contaminant into (a computer) (a computer [system] [network] [program]) (computer software).

2. **PRIVILEGE.** “Privilege” means an immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

COMMENT

R.C. 2901.01.

3. **KNOWINGLY.** OJI-CR 417.11; R.C. 2901.22(B).

4. **TAMPER.** “Tamper” means to change either the physical location or physical condition of property.

COMMENT

Drawn from *State v. Collier*, 2d Dist. Montgomery No. 22686, 2010-Ohio-4039.

5. **PROPERTY.** “Property” means any property, real or personal, tangible or intangible, and any interest or license in such property.

COMMENT

Drawn from R.C. 2901.01.

6. **RESIDENTIAL REAL PROPERTY.** “Residential real property” means real property located within Ohio consisting of land and a structure on that land containing four or fewer dwelling units, each of which is intended for occupancy by a separate household. “Residential real property” includes a residential condominium unit, notwithstanding the number of units in the structure. “Residential real property” includes a manufactured or mobile home only if it is taxed as real property.

COMMENT

Drawn from R.C. 2308.01. The definition set forth in R.C. 2308.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.04.

7. **RESIDENTIAL CONDOMINIUM UNIT.** “Residential condominium unit” means

the designated part of a condominium property devoted in whole or in part to use as a residential dwelling consisting of one or more rooms on one or more floors of a building. It may include exterior portions of the building, spaces in a carport, and parking spaces as described and designated in the declaration and drawings.

COMMENT

Drawn from R.C. 5311.01. The definition set forth in R.C. 5311.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.01 and R.C. 2308.04.

8. **CONDOMINIUM PROPERTY.** “Condominium property” means all real and personal property submitted to the provisions of Ohio law, including land, the buildings, improvements, and structures on that land, the land under a water slip, the buildings, improvements, and structures that form or that are utilized in connection with that water slip, and all easements, rights, and appurtenances belonging to the land or to the land under a water slip.

COMMENT

Drawn from R.C. 5311.01. The definition set forth in R.C. 5311.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.01 and R.C. 2308.04. If there is a factual issue whether the condominium property complies with Ohio law, the trial judge will have to draft instructions as to whether the property has been submitted to the provisions of R.C. Chapter 5311.

9. **WATER SLIP.** “Water slip” means a channel of water between piers or wharves.

COMMENT

Drawn from R.C. 5311.01. The definition set forth in R.C. 5311.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.01 and R.C. 2308.04.

10. **DECLARATION.** “Declaration” means the instrument by which property is submitted to provisions of Ohio law. “Declaration” includes all amendments to that declaration.

COMMENT

Drawn from R.C. 5311.01. The definition set forth in R.C. 5311.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.01. If there is a factual issue whether the condominium property complies with Ohio law, the trial judge will have to draft instructions as to whether the property has been submitted to the provisions of R.C. Chapter 5311.

11. MANUFACTURED HOME. R.C. 3781.06(C)(4).

COMMENT

The definition set forth in R.C. 3781.06(C)(4) is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.01 and R.C. 2308.04.

12. MOBILE HOME. R.C. 4501.01.

COMMENT

The definition set forth in R.C. 4501.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.01 and R.C. 2308.04.

13. RESIDENTIAL MORTGAGE LOAN. R.C. 2308.01.

COMMENT

The definition set forth in R.C. 2308.01 is made applicable to R.C. 2909.07(A)(1) by R.C. 2308.04.

14. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

15. SERVICE OF SUMMONS. “Service of summons” means the lawful delivery of a document issued by the clerk of court to the opposite party in a lawsuit so that he/she has legal notice of the lawsuit.

COMMENT

Drawn from Civ.R. 4(A) and (B).

16. COMPLAINT. “Complaint” means a document in which the plaintiff in a civil lawsuit sets out the claims for relief and invokes the jurisdiction of the court.

COMMENT

Drawn from *Ballentine’s Law Dictionary* (3d Ed.2010).

17. PENDING. “Pending” includes the time between judgment entry and confirmation of sale.

COMMENT

Drawn from R.C. 2909.07(A)(1)(b)(ii). If there is a factual issue involving the time between a judgment entry and confirmation of sale in the residential mortgage loan foreclosure action, the trial judge should provide instructions on the definitions of "judgment entry" and "confirmation of sale."

- 18. SAFETY DEVICE. R.C. 2909.07.
- 19. COMPUTER. R.C. 2909.01, R.C. 2913.01.
- 20. COMPUTER SYSTEM. R.C. 2909.01, R.C. 2913.01.
- 21. COMPUTER NETWORK. R.C. 2909.01, R.C. 2913.01.
- 22. COMPUTER PROGRAM. "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

COMMENT

R.C. 2909.01, R.C. 2913.01.

- 23. COMPUTER SOFTWARE. "Computer software" means computer programs, procedures, and other documentation associated with the operation of a computer system.

COMMENT

R.C. 2909.01, R.C. 2913.01.

- 24. COMPUTER HACKING. R.C. 2909.01, R.C. 2913.01.
- 25. DATA. R.C. 2909.01, R.C. 2913.01.
- 26. COMPUTER CONTAMINANT. R.C. 2909.01.
- 27. ADDITIONAL FINDINGS:

(A) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2909.07(C).

(B) SPECIAL FINDINGS. OJI-CR 425.25; R.C. 2909.07(C).

- 28. RISK. "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01.

29. **PHYSICAL HARM TO PERSONS.** “Physical harm to persons” means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

COMMENT

R.C. 2901.01.

30. **CONCLUSION.** OJI-CR 425.01.

31. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

32. **VERDICT FORM.** We, the jury, having found the defendant guilty of criminal mischief, further find beyond a reasonable doubt that the (value of the [computer] [computer (system) (network) (software) (program)]) (resulting loss to the victim) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) “less than \$1,000”

(or)

(2) “\$1,000 or more and less than \$10,000”

(or)

(3) “\$10,000 or more”

COMMENT

The determination of value is limited to a violation of R.C. 2909.07(A)(6). It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense.

CR 509.08 Endangering aircraft-airport operations R.C. 2909.08 (offenses committed on or after 7/1/96)

1. The defendant is charged with endangering (aircraft) (airport operations). Before you can find the defendant guilty you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio the defendant

(Use appropriate alternative)

(A)(1) knowingly (threw an object at) (dropped an object upon) any moving aircraft.

(or)

(A)(2) knowingly (shot with a bow and arrow) (discharged a [firearm] [airgun] [spring-operated gun]) at or toward any aircraft.

(or)

(B) knowingly or recklessly (shot with a bow and arrow) (discharged a [firearm] [airgun] [spring-operated gun]) (upon) (over) any airport operational surface.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. RECKLESSLY. OJI-CR 417.17; R.C. 2901.22(C).

4. AIR GUN. "Air gun" means a hand pistol or rifle that propels its projectile by means of releasing compressed air, carbon dioxide or other gas.

COMMENT

R.C. 2909.08(A)(1).

5. FIREARM. OJI-CR 417.41; R.C. 2923.11(B)(1).

6. SPRING-OPERATED GUN. "Spring-operated gun" means a hand pistol or rifle that propels a projectile not less than four or more than five millimeters in diameter by means of a spring.

COMMENT

R.C. 2909.08(A)(3).

7. AIRPORT OPERATIONAL SURFACE. R.C. 2909.08(A)(4).

8. AFFIRMATIVE DEFENSES TO R.C. 2909.08(C):

(A) GENERAL. OJI-CR 417.27.

(B) AUTHORIZED PERSON. R.C. 2909.08(C)(1).

The defendant claims that at the time of the alleged offense he/she was an officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, authorized to discharge firearms and acting within the scope of the officer's, agent's, or employee's duties.

(C) HUNTING OR SPORTING ACTIVITY. R.C. 2909.08(C)(2).

The defendant claims that at the time of the alleged offense he/she was lawfully engaged in any hunting or sporting activity or otherwise lawfully discharging a firearm, with the consent of the owner or operator of the airport operational surface or the authorized agent of either.

9. ADDITIONAL FINDINGS:

SPECIAL FINDING. OJI-CR 425.25; R.C. 2909.08(D), (E).

10. **RISK.** “Risk” means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01(A)(7).

11. **PHYSICAL HARM TO PERSONS.** “Physical harm to persons” means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

COMMENT

R.C. 2909.01(A)(3).

12. **CONCLUSION.** OJI-CR 425.01.

13. **CONCLUSION WITH AFFIRMATIVE DEFENSE.** OJI-CR 425.03.

14. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

CR 509.15 Failure to register or reregister as an arson offender R.C. 2909.15 (offenses committed on and after 7/1/13) [Rev. 5/7/16]

1. The defendant is charged with failing to (register) (reregister) as an arson offender. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was

(Use appropriate alternative)

COMMENT

The following alternatives are identified consistent with the lettered subsections in R.C. 2909.15.

(A) an arson offender who failed to register after having received notice under Ohio law of his/her duty to register personally as an arson offender with the (sheriff) (sheriff’s designee) in the county in which the defendant resided within ten days after the (defendant is released from a [jail] [workhouse] [state correctional institution] [*describe other institution*]) (defendant’s sentencing hearing).

COMMENT

“Notice under Ohio law” means notice under R.C. 2909.14(A)(1) or (2). The trial

judge should instruct the jury as to the applicable notice requirements if receipt of notice is a factual issue.

(or)

(B) an out-of-state arson offender who failed to register personally as an arson offender with the (sheriff) (sheriff's designee) in the county in which the defendant resided within ten days after (residing in) (occupying) a dwelling in Ohio for more than three consecutive days.

(or)

(D) an (arson offender) (out-of-state arson offender) who failed to reregister annually, in person, with the (sheriff) (sheriff's designee) in the county in which the defendant resided within ten days of the anniversary of the calendar date in which the defendant initially registered.

2. ARSON OFFENDER. R.C. 2909.13.

3. REGISTER. "Register" means to return to the (sheriff) (sheriff's designee) the registration form containing the required information along with the defendant's identification records and photograph.

COMMENT

Drawn from R.C. 2909.15(C) and (D). In some cases, additional instruction may have to be given that set forth the applicable specific requirements of R.C. 2909.15(C) or (D).

4. RESIDED. "Resided" means the fixed place of habitation to which the person intends to return when absent.

COMMENT

Drawn from R.C. 3503.02.

5. OUT-OF-STATE ARSON OFFENDER. R.C. 2909.13.

6. CONCLUSION. OJI-CR 425.01.

7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.22 Soliciting or providing support for terrorism R.C. 2909.22 [Rev. 2/26/22]

1. The defendant is charged with soliciting or providing support for an act of terrorism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that

on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant (raised) (solicited) (collected) (donated) (provided) any material support or resources, with purpose that the material support or resources would be used in whole or in part to (plan) (prepare) (carry out) (aid in) the (commission of) (concealment of) (escape from) an act of terrorism.

2. SOLICIT. “Solicit” means to seek, ask, influence, invite, tempt, lead on, or bring pressure to bear.

COMMENT

State v. Skatzes, 104 Ohio St.3d 195, 2004 Ohio 6391.

3. AID. “Aid” means to support, assist, encourage, cooperate with, advise, or incite.

COMMENT

Drawn from *State v. Johnson*, 93 Ohio St.3d 240, 2001 Ohio 1336.

4. CONCEAL. “Conceal” means to hide, keep secret, or keep from discovery or observation by others.

COMMENT

Drawn from *State v. Curlee-Jones*, 8th Dist. Cuyahoga No. 98233, 2013-Ohio-1175.

5. ESCAPE. “Escape” means to flee immediately after an act of terrorism.

6. MATERIAL SUPPORT OR RESOURCES. R.C. 2909.21.

7. PAYMENT INSTRUMENT. R.C. 2909.21.

8. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

9. ACT OF TERRORISM. R.C. 2909.21.

10. SPECIFIED OFFENSE. R.C. 2909.21.

COMMENT

The court must give complete instructions describing the elements of the specified offense with necessary definitions and explanations.

11. INTIMIDATE. “Intimidate” means to frighten, scare, or bully.

12. COERCE. “Coerce” means to compel by force, pressure, threat, or other means.

13. CONCLUSION. OJI-CR 425.01.

14. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.23 Making a terroristic threat R.C. 2909.23 [Rev. 3-17-12]

1. The defendant is charged with making a terroristic threat. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant threatened to (commit) (cause to be committed) (*insert specified offense*) and

(A) the defendant made the threat with purpose to

(*Use appropriate alternative[s]*)

(1) intimidate or coerce a civilian population,

(*or*)

(2) influence the policy of any government by intimidation or coercion,

(*or*)

(3) affect the conduct of any government by the threat or by (*insert specified offense*),

(B) and as a result of the threat, the defendant caused a reasonable (expectation) (fear) of the imminent commission of (*insert specified offense*).

COMMENT

It is not a defense to a charge of a violation of this section that the defendant did not have the intent or capability to commit the threatened specified offense or that the threat was not made to a person who was a subject of the threatened specified offense. R.C. 2909.23(B).

The Committee believes the determination as to whether the threatened offense was one of those specified by R.C. 2909.21(N) is a matter of law.

2. THREATENED. "Threat" means (a statement) (conduct) (*describe other means of communication*) whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35. Drawn from *State v. Cress*, 112 Ohio St.3d 72, 2006-Ohio-6501.

3. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

4. CAUSE. OJI-CR 417.23.
5. IMMINENT. “Imminent” means about to happen.
6. INTIMIDATE. “Intimidate” means to frighten, scare, or bully.
7. COERCE. “Coerce” means to compel by force, pressure, threat, or other means.
8. CONCLUSION. OJI-CR 425.01.
9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.24 Terrorism R.C. 2909.24 [Rev. 3-17-12]

1. The defendant is charged with terrorism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant committed (*insert specified offense*) with purpose to

(*Use appropriate alternative[s]*)

(A) intimidate or coerce a civilian population;

(*or*)

(B) influence the policy of any government by intimidation or coercion;

(*or*)

(C) affect the conduct of any government by (*insert specified offense*).

2. SPECIFIED OFFENSE. R.C. 2909.21(B).

COMMENT

The court must give complete instructions describing the elements of the specified offense with necessary definitions and explanations.

3. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
4. INTIMIDATE. “Intimidate” means to frighten, scare, or bully.
5. COERCE. “Coerce” means to compel by force, pressure, threat, or other means.
6. ADDITIONAL FINDING:

(A) SPECIFIED OFFENSE. R.C. 2909.24(B)(3). If you find the defendant guilty of terrorism, you must continue your deliberations to determine whether the state proved beyond a reasonable doubt the defendant committed (*insert first degree felony or murder offense*). If you find the defendant not guilty you shall not make this additional finding.

COMMENT

If the most serious underlying specified offense is aggravated murder, the

Committee believes the court has to follow the procedures set forth in R.C. 2929.02 to 2929.06. R.C. 2909.24(B)(4).

7. CONCLUSION. OJI-CR 425.01.

8. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.26 Criminal possession of chemical weapon, biological weapon, radiological or nuclear weapon or explosive device R.C. 2909.26 [Rev. 5-4-13]

1. The defendant is charged with criminal possession of a (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device). Before you can find the defendant guilty, you must find beyond a reasonable doubt on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly possessed any (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) with the intent to

(*Use appropriate alternative*)

(A) cause (serious physical harm) (death) to another person;

(*or*)

(B) ([intimidate] [coerce] a civilian population) (influence the policy of any government by [intimidation] [coercion]) (affect the conduct of any government by [murder] [assassination] [kidnapping]).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. INTENT. OJI-CR 417.01; R.C. 2901.22 (A).

COMMENT

The Committee believes the element included in this offense that the offense be committed with "intent" requires an instruction on purposely. *Grossweiler v. State*, 113 Ohio St. 46 (1925). Purpose and intent are synonymous. *White v. Maxwell*, 174 Ohio St. 186 (1963).

4. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

5. SERIOUS PHYSICAL HARM. R.C. 2901.01.

6. BIOLOGICAL WEAPON. "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination of any biological agent or agents, any toxin or toxins, any vector or vectors, and any delivery system or systems.

COMMENT

R.C. 2909.21.

7. BIOLOGICAL AGENT. R.C. 2917.33.
8. DELIVERY SYSTEM. R.C. 2917.33.
9. TOXIN. R.C. 2917.33.
10. VECTOR. R.C. 2917.33.
11. CHEMICAL WEAPON. R.C. 2909.21.
12. TOXIC CHEMICAL. R.C. 2909.21.
13. PRECURSOR. R.C. 2909.21.
14. RADIOLOGICAL WEAPON. R.C. 2909.21.
15. NUCLEAR WEAPON. R.C. 2909.21.
16. EXPLOSIVE DEVICE. R.C. 2923.11.
17. INTIMIDATE. "Intimidate" means to frighten, scare, or bully.
18. COERCE. "Coerce" means to compel by force, pressure, threat, or other means.
19. AFFIRMATIVE DEFENSE:
 - (A) GENERAL. OJI-CR 417.27.
 - (B) POSSESSION FOR MILITARY OR LAW ENFORCEMENT PURPOSE. R.C. 2909.26(D). The defendant claims that he/she possessed the (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) for a purpose related to the performance of official duties related to a (military purpose of the United States) (law enforcement purpose).
20. CONCLUSION. OJI-CR 425.01.
21. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.
22. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.27 Criminal use of chemical weapon, biological weapon, radiological or nuclear weapon or explosive device R.C. 2909.27 [Rev. 5-4-13]

1. The defendant is charged with criminal use of a (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device). Before you can find the defendant guilty, you must find beyond a reasonable doubt on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A) recklessly (used) (deployed) (released) (caused to be used) any (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) that created a risk of (death) (serious physical harm) to any person who was not a participant in the offense.

(or)

(B) knowingly (used) (deployed) (released) (caused to be used) any (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) with intent to ([intimidate] [coerce] a civilian population) (influence the policy of any government by [intimidation] [coercion]) (affect the conduct of any government by [murder] [assassination] [kidnapping]) (cause [physical harm] [death] to any person who was not a participant in the offense).

2. RECKLESSLY. OJI-CR 417.17; R.C. 2901.22(C).
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. INTENT. OJI-CR 417.01; R.C. 2901.22(A).

COMMENT

The Committee believes the element included in this offense that the offense be committed with "intent" requires an instruction on purposely. *Grossweiler v. State*, 113 Ohio St. 46 (1925). Purpose and intent are synonymous. *White v. Maxwell*, 174 Ohio St. 186 (1963).

5. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
6. SERIOUS PHYSICAL HARM. R.C. 2901.01.
7. PHYSICAL HARM. "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
8. BIOLOGICAL WEAPON. "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination of any biological agent or agents, any toxin or toxins, any vector or vectors, and any delivery system or systems.

COMMENT

R.C. 2909.21.

9. BIOLOGICAL AGENT. R.C. 2917.33.
10. DELIVERY SYSTEM. R.C. 2917.33.
11. TOXIN. R.C. 2917.33.
12. VECTOR. R.C. 2917.33.
13. CHEMICAL WEAPON. R.C. 2909.21.

14. TOXIC CHEMICAL. R.C. 2909.21.
15. PRECURSOR. R.C. 2909.21.
16. RADIOLOGICAL WEAPON. R.C. 2909.21.
17. NUCLEAR WEAPON. R.C. 2909.21.
18. EXPLOSIVE DEVICE. R.C. 2923.11.
19. INTIMIDATE. "Intimidate" means to frighten, scare, or bully.
20. COERCE. "Coerce" means to compel by force, pressure, threat, or other means.
21. AFFIRMATIVE DEFENSE:

COMMENT

The following affirmative defenses are applicable only when a violation of R.C. 2909.27(A) is alleged.

(A) GENERAL. OJI-CR 417.27.

(B) HOUSEHOLD PRODUCT. R.C. 2909.27(D)(1)(a). The defendant claims that he/she possessed the (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) and that it was a household product that is generally for sale to consumers in this state in the quantity and concentration available for sale to those consumers.

(C) SELF-DEFENSE SPRAY. R.C. 2909.27(D)(1)(b). The defendant claims that he/she possessed the (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) and that it was a self-defense spray.

(D) PROTECTIVE, BONA FIDE RESEARCH, OR OTHER PEACEFUL PURPOSE. R.C. 2909.27(D)(1)(c). The defendant claims that he/she possessed the (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device) and that it was a (biological agent) (toxin) (delivery system) the person possessed solely for protective, bona fide research, or other peaceful purposes.

(E) PERMITTED PURPOSE. R.C. 2909.27(D)(1)(d). The defendant claims that he/she possessed the chemical weapon in a type and quantity consistent with and solely for the purpose of (any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other peaceful activity) (any purpose directly related to protection against toxic chemicals and to protection against chemical weapons) (any military purpose of the United States that is not [connected with the use of a] [dependent on the use of the toxic or poisonous properties of the] chemical weapon to cause death or other harm when related to the performance of official duties) (any law enforcement purpose, including any domestic riot control purpose, when related to the performance of official duties).

22. CONCLUSION. OJI-CR 425.01.

23. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.
24. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.28 Illegal assembly or possession of chemicals or substances for the manufacture of a chemical weapon, biological weapon, radiological or nuclear weapon, or explosive device R.C. 2909.28 (offenses committed on and after 9/10/12) [Rev. 8/5/15]

1. The defendant is charged with illegal (assembly) (possession) of (chemicals) (substances) for the manufacture of a/an (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device). Before you can find the defendant guilty, you must find beyond a reasonable doubt on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with the intent to manufacture a/an (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device), knowingly (assembled) (possessed) one or more (toxins) (toxic chemicals) (precursors of toxic chemicals) (vectors) (biological agents) (hazardous radioactive substances) that may be used to manufacture a (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device).
2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. INTENT. OJI-CR 417.01; R.C. 2901.22(A).

COMMENT

The Committee believes the element included in this offense that the offense be committed with "intent" requires an instruction on purposely. *Grossweiler v. State*, 113 Ohio St. 46 (1925). Purpose and intent are synonymous. *White v. Maxwell*, 174 Ohio St. 186 (1963).

4. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
5. CHEMICAL WEAPON. R.C. 2909.21.
6. BIOLOGICAL WEAPON. "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination of any biological agent or agents, any toxin or toxins, any vector or vectors, and any delivery system or systems.

COMMENT

R.C. 2909.21.

7. BIOLOGICAL AGENT. R.C. 2917.33.
8. TOXIN. R.C. 2917.33.

9. VECTOR. R.C. 2917.33.
10. DELIVERY SYSTEM. R.C. 2917.33.
11. RADIOLOGICAL WEAPON. R.C. 2909.21.
12. NUCLEAR WEAPON. R.C. 2909.21.
13. EXPLOSIVE DEVICE. R.C. 2923.11.
14. TOXIC CHEMICAL. R.C. 2909.21.
15. PRECURSOR. R.C. 2909.21.
16. SINGLE CHEMICAL OR SUBSTANCE (ADDITIONAL). It is not necessary to find that the defendant (assembled) (possessed) all chemicals or substances necessary to manufacture a/an (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device). If you find beyond a reasonable doubt that the defendant (assembled) (possessed) a single chemical or substance, with the intent to use that chemical or substance in the manufacture of a/an (chemical weapon) (biological weapon) (radiological weapon) (nuclear weapon) (explosive device), you may find the defendant guilty.

COMMENT

Drawn from R.C. 2909.28(B).

17. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) PERMITTED PURPOSE. R.C. 2909.28(D). The defendant claims that he/she (assembled) (possessed) the (toxins) (toxic chemicals) (precursors of toxic chemicals) (vectors) (biological agents) (hazardous radioactive substances) for a purpose related to the performance of official duties related to a (military purpose of the United States) (law enforcement purpose, including any domestic riot control purpose).

COMMENT

In *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792, the Supreme Court held that “R.C. 2925.03(B)(1) excludes licensed health professionals from being subject to drug-trafficking charges, and the burden of proving the inapplicability of this exclusion rests upon the State. Therefore, to convict a licensed health professional of trafficking in drugs under R.C. 2925.03(A), the State bears the burden of proving beyond a reasonable doubt the inapplicability of the licensed-health-professional exception in R.C. 2925.03(B)(1) by submitting evidence that the licensed health professional violated statutes or regulations that define the standard of care for dispensing controlled substances.”

The Committee recognizes that this case presents a dilemma for the trial judge as to when to instruct the jury that the state must prove that the exception in the

criminal statute does not apply to a defendant as an element as opposed to an affirmative defense. *See State v. Durbin*, 9th Dist. No. 10CA0136-M, 2012-Ohio-301, which holds that the exception is either an element of the offense that the state must prove beyond a reasonable doubt or an affirmative defense that a defendant must prove.

18. CONCLUSION. OJI-CR 425.01.

19. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

20. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.29 Money laundering in support of terrorism R.C. 2909.29 [Rev. 2/26/22]

1. The defendant is charged with money laundering in support of terrorism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knew that the property was (the proceeds of an act of terrorism) (a monetary instrument [given] [received] [intended] [to be used] in support of an act of terrorism) and ([conducted] [attempted to conduct] any transaction involving that property) ([transported] [transmitted] [transferred] that monetary instrument) with the intent to

(Use appropriate alternative[s])

(A) (commit) (further the commission) of criminal activity;

(or)

(B) (conceal) (disguise) the (nature) (location) (source) (ownership) (control) of (the proceeds of an act of terrorism) (a monetary instrument [given] [received] [intended] [to be used] to support an act of terrorism);

(or)

(C) (conceal) (disguise) the intent to avoid a transaction reporting requirement under (Ohio) (federal) law.

COMMENT

The court should instruct the jury on the applicable reporting requirements under R.C. 1315.53 or federal law. R.C. 2909.29(A)(3).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. INTENT. OJI-CR 417.01; R.C. 2901.22(A).

COMMENT

The Committee believes the element included in this offense that the offense be

committed with "intent" requires an instruction on purposely. *Grossweiler v. State*, 113 Ohio St. 46 (1925). Purpose and intent are synonymous. *White v. Maxwell*, 174 Ohio St. 186 (1963).

4. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
5. CONCEAL. "Conceal" means to hide, keep secret, or keep from discovery or observation by others.

COMMENT

Drawn from *State v. Curlee-Jones*, 8th Dist. Cuyahoga No. 98233, 2013-Ohio-1175.

6. MATERIAL SUPPORT OR RESOURCES. R.C. 2909.21.
7. PAYMENT INSTRUMENT. R.C. 2909.21.
8. ACT OF TERRORISM. R.C. 2909.21.
9. SPECIFIED OFFENSE. R.C. 2909.21.

COMMENT

The court must give complete instructions describing the elements of the specified offense with necessary definitions and explanations.

10. ADDITIONAL FINDING:
 - (A) VALUE. OJI-CR 425.23; R.C. 2909.29(B).
11. CONCLUSION. OJI-CR 425.01.
12. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.
13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 509.101 Railroad grade crossing device vandalism R.C. 2909.101 (offenses committed on and after 4/9/03) [Rev. 2/6/16]

1. The defendant is charged with railroad grade crossing device vandalism. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (defaced) (damaged) (obstructed) (removed) (impaired) the operation of a/an (railroad grade cross warning signal) (*describe other protective device*).

COMMENT

Protective devices include any gate, bell, light, crossbuck, stop sign, yield sign,

advance warning sign, or advance pavement marking. R.C. 2909.101(A).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. ADDITIONAL FINDINGS:

(A) SPECIAL FINDING. OJI-CR 425.25; R.C. 2909.101(B).

(B) DEFINITIONS:

(1) SERIOUS PHYSICAL HARM TO PROPERTY. R.C. 2901.01.

(2) SUBSTANTIAL RISK. "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01.

(3) PHYSICAL HARM TO PERSONS. "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

COMMENT

R.C. 2901.01.

(4) SERIOUS PHYSICAL HARM TO PERSONS. R.C. 2901.01.

4. CONCLUSION. OJI-CR 425.01.

5. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

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Chapter CR 513

THEFT AND FRAUD

COMMENT

Senate Bill 2 (S.B. 2), effective July 1, 1996, is primarily felony sentencing legislation. It applies prospectively to offenses committed on or after July 1, 1996. Some instructions in this chapter apply only to offenses committed on and after July 1, 1996. The other instructions are not affected by S.B. 2.

- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 7/1/96 but before 7/22/98) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 7/22/98 but before 11/10/99) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 11/10/99 but before 9/16/03) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 9/16/2003 but before 11/26/2004) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 11/26/2004 but before 4/15/2005) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 4/15/2005 but before 3/14/2007) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 3/14/2007 but before 4/7/2009) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 4/7/2009 but before 9/30/2011) *[Rev. 10-22-11]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 9/30/2011 but before 7/1/13) *[Rev. 9/14/13]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 7/1/13 but before 9/16/14) *[Rev. 9/14/13]*
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 9/16/14) *[Rev. 1/9/16]*
- CR 513.03 Unauthorized use of a vehicle R.C. 2913.03 (offenses committed on and after 7/1/96 but before 11/10/99) *[Rev. 5/7/16]*
- CR 513.03 Unauthorized use of a vehicle R.C. 2913.03 (offenses committed on and after 11/10/99 but before 9/30/11) *[Rev. 5/7/16]*
- CR 513.03 Unauthorized use of a vehicle R.C. 2913.03 (offenses committed on and after 9/30/11) *[Rev. 5/7/16]*
- CR 513.04 Unauthorized use of property R.C. 2913.04 (offenses committed on and after 7/1/96)
- CR 513.05 Telecommunications fraud R.C. 2913.05 (offenses committed on and after 3/30/99 but before 6/8/12) *[Rev. 5/6/17]*
- CR 513.05 Telecommunications fraud R.C. 2913.05 (offenses committed on and after 6/8/12)

[Rev. 5/6/17]

- CR 513.07 Motion picture piracy R.C. 2913.07 (offenses committed on and after 3/9/04) *[Rev. 1/21/18]*
- CR 513.041 Possession or sale of unauthorized device R.C. 2913.041 (offenses committed on and after 7/1/96)
- CR 513.11 Passing bad checks R.C. 2913.11 (offenses committed on and after 7/1/96 but before 5/18/05) *[Rev. 10/13/18]*
- CR 513.11 Passing bad checks R.C. 2913.11 (offenses committed on and after 5/18/05 but before 9/30/11) *[Rev. 10/13/18]*
- CR 513.11 Passing bad checks R.C. 2913.11 (offenses committed on and after 9/30/11) *[Rev. 10/13/18]*
- CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 7/1/96 but before 11/10/99)
- CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 11/10/99 but before 9/30/11) *[Rev. 12/8/18]*
- CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 9/30/11 but before 11/2/18) *[Rev. 12/8/18]*
- CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 11/2/18) *[Rev. 5/22/2021]*
- CR 513.30 Counterfeiting R.C. 2913.30 (offenses committed on and after 1/22/19) *[Rev. 2/26/22]*
- CR 513.31(A) Forgery R.C. 2913.31(A) (offenses committed on and after 7/1/96)
- CR 513.31(B) Forging identification cards or selling or distributing forged identification cards R.C. 2913.31(B)
- CR 513.32 Criminal simulation R.C. 2913.32 (offenses committed on and after 7/1/96)
- CR 513.33 Making or using slugs R.C. 2913.33
- CR 513.34 Trademark counterfeiting R.C. 2913.34 (offenses committed on and after 3/31/97)
- CR 513.40 Medicaid fraud R.C. 2913.40 *[Rev. 8-22-07]*
- CR 513.401 Medicaid eligibility fraud R.C. 2913.401 *[Rev. 8-22-07]*
- CR 513.41 Defrauding a livery or hostelry R.C. 2913.41 (offenses committed before 7/1/96)
- CR 513.42 Tampering with records R.C. 2913.42 (offenses committed on and after 7/1/96)
- CR 513.421(B) Illegally transmitting multiple commercial electronic mail messages (spamming) R.C. 2913.421(B) (offenses committed on and after 9/30/11) *[Rev. 3/12/22]*
- CR 513.421(D) Unauthorized access of computer R.C. 2913.421(D) (offenses committed on and after 9/30/11) *[Rev. 3/12/22]*
- CR 513.43 Securing writings by deception R.C. 2913.43 (offenses committed on and after 7/1/96)
- CR 513.44 Personating an officer R.C. 2913.44
- CR 513.45 Defrauding creditors R.C. 2913.45 (offenses committed on and after 7/1/96)
- CR 513.46(B) Illegal use of food stamps or WIC program benefits R.C. 2913.46(B) (offenses committed on and after 9/26/96)
- CR 513.46(C) Illegal use of food stamps or WIC program benefits R.C. 2913.46(C) (offenses committed on and after 9/26/96)
- CR 513.47 Insurance fraud R.C. 2913.47 (offenses committed on and after 7/1/96)

- CR 513.48 Workers' compensation fraud R.C. 2913.48 (offenses committed on and after 7/1/96)
- CR 513.49 Identity Fraud R.C. 2913.49 (offenses committed on and after 9/16/05 but before 9/30/11) [Rev. 1-21-12]
- CR 513.49 Identity Fraud R.C. 2913.49 (offenses committed on and after 9/30/11) [Rev. 1-21-12]
- CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 7/1/96 but before 7/22/98) [Rev. 1/11/14]
- CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 7/22/98 but before 10/29/99) [Rev. 1/11/14]
- CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 10/29/99 but before 9/30/11) [Rev. 1/11/14]
- CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 9/30/11 but before 7/1/13) [Rev. 1/11/14]
- CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 7/1/13) [Rev. 1/11/14]
- CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 7/1/96 but before 7/22/98) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of a motor vehicle) (theft of dangerous drugs). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to deprive the owner of (*describe specific [property] [rented property] [services] [motor vehicle] [dangerous drug]*), knowingly (obtained) (exerted control over) the (*describe specific [property] [rented property] [services] [motor vehicle] [dangerous drug]*)

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. PROPERTY. R.C. 2901.01.
4. RENTED PROPERTY. R.C. 2913.01.
5. SERVICES. "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. MOTOR VEHICLE. R.C. 4501.01.
8. DANGEROUS DRUG. R.C. 2749.02.
9. PURPOSE. OJI-CR 417.01; R.C. 2901.22.
10. DEPRIVE. R.C. 2913.01.
11. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

12. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.
13. DECEPTION. R.C. 2913.01.
14. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

15. ADDITIONAL FINDINGS:

(A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be used to determine value.

(B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.

(D) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of drugs charge.

16. CONCLUSION. OJI-CR 425.01.

17. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

18. ADDITIONAL FINDING VERDICT FORM.

We, the jury, having found the defendant guilty of (*specify the offense or offenses*), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 7/22/98 but before 11/10/99) [Rev. 10-22-11]**COMMENT**

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to deprive the owner of (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug]), knowingly (obtained) (exerted control over) the (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug])

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. FIREARM. R.C. 2923.11.
8. DANGEROUS ORDNANCE. R.C. 2923.11.
9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
12. DEPRIVE. R.C. 2913.01.
13. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

14. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.
15. DECEPTION. R.C. 2913.01.
16. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

17. ADDITIONAL FINDINGS:
 - (A) VALUE. OJI-CR 425.23; R.C.2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be

used to determine value.

(B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.

(D) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of drugs charge.

18. CONCLUSION. OJI-CR 425.01.

19. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

20. ADDITIONAL FINDING VERDICT FORM.

We, the jury, having found the defendant guilty of (*specify the offense or offenses*), further find beyond a reasonable doubt that the value of the (property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 11/10/99 but before 9/16/03) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state

specifically the additional finding(s) that determine(s) the degree of the offense.
State v. Pelfrey, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to deprive the owner of (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug]*), knowingly (obtained) (exerted control over) the (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug]*)

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.

7. FIREARM. R.C. 2923.11.

8. DANGEROUS ORDNANCE. R.C. 2923.11.

9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
12. DEPRIVE. R.C. 2913.01.
13. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

14. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.
15. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

16. DECEPTION. R.C. 2913.01.
17. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

18. INTIMIDATION. "Intimidation" means the act of frightening, scaring, or bullying.
19. ADDITIONAL FINDINGS:
 - (A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

- (B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).
- (C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.
- (D) ELDERLY PERSON. R.C. 2913.01, 2913.02(B).
- (E) DISABLED ADULT. R.C. 2913.01, 2913.02(B).
- (F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(G) DEFINITIONS:

- (1) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

- (2) DISABLED ADULT. R.C. 2913.01.

20. CONCLUSION. OJI-CR 425.01.

21. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

22. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or “\$100,000 or more”

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

23. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: “was” or “was not”

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either “less than \$500”

or “\$500 or more and less than \$5,000”

or “\$5,000 or more and less than \$100,000”

or “\$100,000 or more”

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either “less than \$500”

or “\$500 or more and less than \$5,000”

or “\$5,000 or more and less than \$25,000”

or "\$25,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 9/16/2003 but before 11/26/2004) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to deprive the owner of (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug]), knowingly (obtained) (exerted control over) the (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug])

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. PROPERTY. R.C. 2901.01.
4. RENTED PROPERTY. R.C. 2913.01.
5. SERVICES. “Services” include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. FIREARM. R.C. 2923.11.
8. DANGEROUS ORDNANCE. R.C. 2923.11.
9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
12. DEPRIVE. R.C. 2913.01.
13. OWNER. “Owner” means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

14. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.
15. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the

capacity of the victim to consent is at issue.

16. DECEPTION. R.C. 2913.01.

17. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

18. INTIMIDATION. "Intimidation" means the act of frightening, scaring, or bullying.

19. ADDITIONAL FINDINGS:

(A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.

(D) ELDERLY PERSON. R.C. 2913.01, 2913.02(B).

(E) DISABLED ADULT. R.C. 2913.01, 2913.02(B).

(F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).

COMMENT

"Failure to make full payment for gasoline" was added as a penalty enhancement effective 3/9/2004. H.B. 179.

(H) DEFINITIONS:

(1) **ELDERLY PERSON.** "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(2) **DISABLED ADULT.** R.C. 2913.01.

20. **CONCLUSION.** OJI-CR 425.01.

21. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

22. **VERDICT FORM.**

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

23. **ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).**

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$25,000"

or "\$25,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 11/26/2004 but before 4/15/2005) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity

or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [service dog]). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to deprive the owner of a/an (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [(police dog) (police horse) (service dog) while the defendant knew or should have known it was a (police dog) (police horse) (service dog)]*), knowingly (obtained) (exerted control over) the (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [police dog] [police horse] [service dog]*)

(*Use appropriate alternative[s]*)

(A)(1) without the consent of the (owner) (person authorized to give consent);

(*or*)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(*or*)

(A)(3) by deception;

(*or*)

(A)(4) by threat;

(*or*)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. FIREARM. R.C. 2923.11.
8. DANGEROUS ORDNANCE. R.C. 2923.11.
9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. POLICE DOG, POLICE HORSE, OR SERVICE DOG. R.C. 2913.01, 2921.321.
12. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
13. DEPRIVE. R.C. 2913.01.
14. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

15. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

16. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

17. DECEPTION. R.C. 2913.01.
18. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*) whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

19. **INTIMIDATION.** “Intimidation” means the act of frightening, scaring, or bullying.

20. **SHOULD HAVE KNOWN.** In deciding whether the defendant should have known that the animal was a ([police dog] [police horse] [service dog]), you must put yourself in the position of this defendant with his/her knowledge, or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a ([police dog] [police horse] [service dog]).

COMMENT

Drawn from OJI-CR 511.01(B).

21. **ADDITIONAL FINDINGS:**

(A) **VALUE.** OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) **AGGREGATE VALUE.** OJI-CR 425.23; R.C. 2913.61(B).

(C) **SPECIAL PROPERTY.** OJI-CR 425.23; R.C. 2913.02(B), 2913.71.

(D) **ELDERLY PERSON.** R.C. 2913.01, 2913.02(B).

(E) **DISABLED ADULT.** R.C. 2913.01, 2913.02(B).

(F) **PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE.** OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).

(H) DEFINITIONS:

(1) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(2) DISABLED ADULT. R.C. 2913.01.

22. CONCLUSION. OJI-CR 425.01.

23. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

24. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

25. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$25,000"

or "\$25,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 4/15/2005 but before 3/14/2007) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity

or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [service dog] [assistance dog]) (anhydrous ammonia). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to deprive the owner of (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [(police dog) (police horse) (service dog) (assistance dog) while the defendant knew or should have known it was a (police dog) (police horse) (service dog) (assistance dog)], [anhydrous ammonia]*), knowingly (obtained) (exerted control over) the (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [police dog] [police horse] [service dog] [assistance dog] [anhydrous ammonia]*)

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, public utility services including wireless services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01. "Wireless services" was added to the statutory definition of

services effective 5/6/2005. H.B. 361.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. FIREARM. R.C. 2923.11.
8. DANGEROUS ORDNANCE. R.C. 2923.11.
9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. POLICE DOG, POLICE HORSE, SERVICE DOG OR ASSISTANCE DOG. R.C. 2913.01, 2921.321.

COMMENT

The term "service dog" was changed to "assistance dog" effective 6/30/2006. H.B. 530. No substantive change in the offense was made with this amendment.

12. ANHYDROUS AMMONIA. R.C. 2913.01.
13. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
14. DEPRIVE. R.C. 2913.01.
15. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

16. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.
17. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the

capacity of the victim to consent is at issue.

18. DECEPTION. R.C. 2913.01.

19. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

20. INTIMIDATION. "Intimidation" means the act of frightening, scaring, or bullying.

21. SHOULD HAVE KNOWN. In deciding whether the defendant should have known that the animal was a ([police dog] [police horse] [service dog] [assistance dog]), you must put yourself in the position of this defendant with his/her knowledge, or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a ([police dog] [police horse] [service dog] [assistance dog]).

COMMENT

Drawn from OJI-CR 511.01(B).

22. ADDITIONAL FINDINGS:

(A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61.

(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.

(D) ELDERLY PERSON. R.C. 2913.01, 2913.02(B).

(E) DISABLED ADULT. R.C. 2913.01, 2913.02(B).

(F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).

(H) DEFINITIONS:

(1) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(2) DISABLED ADULT. R.C. 2913.01.

23. CONCLUSION. OJI-CR 425.01.

24. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

25. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

26. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$25,000"

or "\$25,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the

finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 3/14/2007 but before 4/7/2009) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [assistance dog]) (anhydrous ammonia). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to deprive the owner of (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [(police dog) (police horse) (assistance dog) while the defendant knew or should have known it was a (police dog) (police horse) (assistance dog)] [anhydrous ammonia]*), knowingly (obtained) (exerted control over) the (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [police dog] [police horse] [assistance dog] [anhydrous ammonia]*)

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.
5. SERVICES. "Services" include labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. FIREARM. R.C. 2923.11.
8. DANGEROUS ORDNANCE. R.C. 2923.11.
9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. POLICE DOG, POLICE HORSE, OR ASSISTANCE DOG. R.C. 2913.01, 2921.321.
12. ANHYDROUS AMMONIA. R.C. 2913.01.
13. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
14. DEPRIVE. R.C. 2913.01.
15. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

16. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.
17. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the

capacity of the victim to consent is at issue.

18. DECEPTION. R.C. 2913.01.

19. THREAT. “Threat” means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

20. INTIMIDATION. “Intimidation” means the act of frightening, scaring, or bullying.

21. SHOULD HAVE KNOWN. In deciding whether the defendant should have known that the animal was a ([police dog] [police horse] [assistance dog]), you must put yourself in the position of this defendant with his/her knowledge, or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a ([police dog] [police horse] [assistance dog]).

COMMENT

Drawn from OJI-CR 511.01(B).

22. ADDITIONAL FINDINGS:

(A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.

(D) ELDERLY PERSON. R.C. 2913.01, 2913.02(B).

(E) DISABLED ADULT. R.C. 2913.01, 2913.02(B).

(F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).

(H) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.02(B). If you find the defendant guilty of theft of a firearm or dangerous ordnance, then you must decide beyond a reasonable doubt whether the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer.

(I) DEFINITIONS:

(1) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.01, 5502.63.

(2) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(3) DISABLED ADULT. R.C. 2913.01.

23. CONCLUSION. OJI-CR 425.01.

24. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

25. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the

finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

26. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

* Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$25,000"

or "\$25,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 4/7/2009 but before 9/30/2011) [Rev. 10-22-11]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [assistance dog]) (anhydrous ammonia). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to deprive the owner of (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [(police dog) (police horse) (assistance dog) while the defendant knew or should have known it was a (police dog) (police horse) (assistance dog)] [anhydrous ammonia]), knowingly (obtained) (exerted control over) the (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [police dog] [police horse] [assistance dog] [anhydrous ammonia])

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, rental services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01. "Rental services" was added to the statutory definition of "services" effective 4/7/2009. S.B. 320.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.

7. FIREARM. R.C. 2923.11.

8. DANGEROUS ORDNANCE. R.C. 2923.11.

9. MOTOR VEHICLE. R.C. 4501.01.

10. DANGEROUS DRUG. R.C. 2749.01.

11. POLICE DOG, POLICE HORSE, OR ASSISTANCE DOG. R.C. 2913.01, 2921.321.

12. ANHYDROUS AMMONIA. R.C. 2913.01.

13. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

14. DEPRIVE. R.C. 2913.01.

15. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

16. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

17. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent

when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

18. DECEPTION. R.C. 2913.01.

19. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

20. INTIMIDATION. "Intimidation" means the act of frightening, scaring, or bullying.

21. SHOULD HAVE KNOWN. In deciding whether the defendant should have known that the animal was a ([police dog] [police horse] [assistance dog]), you must put yourself in the position of this defendant with his/her knowledge, or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a ([police dog] [police horse] [assistance dog]).

COMMENT

Drawn from OJI-CR 511.01(B).

22. ADDITIONAL FINDINGS:

(A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

- (B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).
- (C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.
- (D) ELDERLY PERSON. R.C. 2913.01, 2913.02(B).
- (E) DISABLED ADULT. R.C. 2913.01, 2913.02(B).
- (F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

- (G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).
- (H) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.02(B). If you find the defendant guilty of theft of a firearm or dangerous ordnance, then you must decide beyond a reasonable doubt whether the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer.
- (I) THEFT OF RENTED PROPERTY OR RENTAL SERVICES.

COMMENT

R.C. 2913.02(B) provides that the court may order restitution if the defendant stole rented property or rental services when there is a determination of the amount of restitution. The court must instruct the jury as to what it shall consider as evidence of the defendant's intent to commit theft of rented property or rental services. R.C. 2913.72.

(J) DEFINITIONS:

- (1) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.01, 5502.63.
- (2) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

- (3) DISABLED ADULT. R.C. 2913.01.
23. CONCLUSION. OJI-CR 425.01.
24. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR

425.11.

25. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more and less than \$500,000"

or "\$500,000 or more and less than \$1,000,000"

or "\$1,000,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

26. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or “\$5,000 or more and less than \$100,000”
 or “\$100,000 or more and less than \$500,000”
 or “\$500,000 or more and less than \$1,000,000”
 or “\$1,000,000 or more”

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either “less than \$500”
 or “\$500 or more and less than \$5,000”
 or “\$5,000 or more and less than \$25,000”
 or “\$25,000 or more and less than \$100,000”
 or “\$100,000 or more”

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 9/30/2011 but before 7/1/13) [Rev. 9/14/13]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [assistance dog]) (anhydrous ammonia). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to deprive the owner of (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [(police dog) (police horse) (assistance dog) while the defendant knew or should have known it was a (police dog) (police horse) (assistance dog)] [anhydrous

ammonia)], knowingly (obtained) (exerted control over) the (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [police dog] [police horse] [assistance dog] [anhydrous ammonia])

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, rental services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.

7. FIREARM. R.C. 2923.11.

8. DANGEROUS ORDNANCE. R.C. 2923.11.

9. MOTOR VEHICLE. R.C. 4501.01.

10. DANGEROUS DRUG. R.C. 2749.01.

11. POLICE DOG, POLICE HORSE, OR ASSISTANCE DOG. R.C. 2913.01, 2921.321.

12. ANHYDROUS AMMONIA. R.C. 2913.01.

13. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

14. DEPRIVE. R.C. 2913.01.

15. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

16. **CONSENT.** Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

17. **LACK OF CAPACITY (ADDITIONAL).** A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

18. **DECEPTION.** R.C. 2913.01.

19. **THREAT.** “Threat” means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

20. **INTIMIDATION.** “Intimidation” means the act of frightening, scaring, or bullying.

21. **SHOULD HAVE KNOWN.** In deciding whether the defendant should have known that the animal was a ([police dog] [police horse] [assistance dog]), you must put yourself in the position of this defendant with his/her knowledge, or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a ([police dog] [police horse] [assistance dog]).

COMMENT

Drawn from OJI-CR 511.01(B).

22. ADDITIONAL FINDINGS:

- (A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), 2913.61(A).

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

- (B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).
(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), 2913.71.
(D) ELDERLY PERSON. R.C. 2913.01, 2913.02(B).
(E) DISABLED ADULT. R.C. 2913.01, 2913.02(B).
(F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

- (G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).
(H) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.02(B). If you find the defendant guilty of theft of a firearm or dangerous ordnance, then you must decide beyond a reasonable doubt whether the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer.
(I) THEFT OF RENTED PROPERTY OR RENTAL SERVICES.

COMMENT

R.C. 2913.02(B) provides that the court may order restitution if the defendant stole rented property or rental services when there is a determination of the amount of restitution. The court must instruct the jury as to what it shall consider as evidence of the defendant's intent to commit theft of rented property or rental services. R.C. 2913.72.

(J) DEFINITIONS:

- (1) **FEDERALLY LICENSED FIREARMS DEALER.** R.C. 2913.01, 5502.63.
- (2) **ELDERLY PERSON.** “Elderly person” means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

- (3) **DISABLED ADULT.** R.C. 2913.01.

23. **CONCLUSION.** OJI-CR 425.01.

24. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

25. **VERDICT FORM.**

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either “less than \$1,000”

or “\$1,000 or more and less than \$7,500”

or “\$7,500 or more and less than \$150,000”

or “\$150,000 or more and less than \$750,000”

or “\$750,000 or more and less than \$1,500,000”

or “\$1,500,000 or more”

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

26. **ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).**

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$1,000"

or "\$1,000 or more and less than \$7,500"

or "\$7,500 or more and less than \$150,000"

or "\$150,000 or more and less than \$750,000"

or "\$750,000 or more and less than \$1,500,000"

or "\$1,500,000 or more"

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

either "less than \$1,000"

or "\$1,000 or more and less than \$7,500"

or "\$7,500 or more and less than \$37,500"

or "\$37,500 or more and less than \$150,000"

or "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 7/1/13 but before 9/16/14) [Rev. 9/14/13]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity

or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [assistance dog]) (theft of anhydrous ammonia) (theft of a special purpose article or articles) (theft of a bulk merchandise container or containers). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to deprive the owner of (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [(police dog) (police horse) (assistance dog) while the defendant knew or should have known it was a (police dog) (police horse) (assistance dog)] [anhydrous ammonia] [special purpose article or articles] [bulk merchandise container or containers]*), knowingly (obtained) (exerted control over) the (*describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drug] [police dog] [police horse] [assistance dog] [anhydrous ammonia] [special purpose article or articles] [bulk merchandise container or containers]*)

(*Use appropriate alternative[s]*)

(A)(1) without the consent of the (owner) (person authorized to give consent);

(*or*)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(*or*)

(A)(3) by deception;

(*or*)

(A)(4) by threat;

(*or*)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, rental services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

Drawn from R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.
7. FIREARM. R.C. 2923.11.
8. DANGEROUS ORDNANCE. R.C. 2923.11.
9. MOTOR VEHICLE. R.C. 4501.01.
10. DANGEROUS DRUG. R.C. 2749.01.
11. POLICE DOG, POLICE HORSE, OR ASSISTANCE DOG. R.C. 2913.01, R.C. 2921.321.
12. ANHYDROUS AMMONIA. R.C. 2913.01.
13. SPECIAL PURPOSE ARTICLE(S). R.C. 4737.04.

COMMENT

If the value of the special purpose article is less than \$7,500, then the offense is a fifth degree felony. R.C. 2913.01(B)(9).

14. BULK MERCHANDISE CONTAINER(S). R.C. 4737.012.

COMMENT

If the value of the bulk merchandise container is less than \$7,500, then the offense is a fifth degree felony. R.C. 2913.01(B)(9).

15. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
16. DEPRIVE. R.C. 2913.01.
17. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

18. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

19. **LACK OF CAPACITY (ADDITIONAL).** A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should be read to the jury only if the capacity of the victim to consent is at issue.

20. **DECEPTION.** R.C. 2913.01.

21. **THREAT.** "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

22. **INTIMIDATION.** "Intimidation" means the act of frightening, scaring, or bullying.

23. **SHOULD HAVE KNOWN.** In deciding whether the defendant should have known that the animal was a (police dog) (police horse) (assistance dog), you must put yourself in the position of this defendant with his/her knowledge, or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a (police dog) (police horse) (assistance dog).

COMMENT

Drawn from OJI-CR 511.01(B).

24. **ADDITIONAL FINDINGS:**

(A) **VALUE.** OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.61.

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(C) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.71.

COMMENT

The Committee believes that the appropriate additional finding verdict form should be used to determine the special property.

(D) ELDERLY PERSON. R.C. 2913.01, R.C. 2913.02(B).

(E) DISABLED ADULT. R.C. 2913.01, R.C. 2913.02(B).

(F) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), R.C. 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(G) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).

(H) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.02(B). If you find the defendant guilty of theft of a firearm or dangerous ordnance, then you must decide beyond a reasonable doubt whether the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer.

(I) THEFT OF RENTED PROPERTY OR RENTAL SERVICES.

COMMENT

R.C. 2913.02(B) provides that the court may order restitution if the defendant stole rented property or rental services when there is a determination of the amount of restitution. The court must instruct the jury as to what the jury shall consider as evidence of the defendant's intent to commit theft of rented property or rental services. R.C. 2913.72.

(J) DEFINITIONS:

(1) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.01, R.C. 5502.63.

(2) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(3) DISABLED ADULT. R.C. 2913.01.

25. CONCLUSION. OJI-CR 425.01.

26. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

27. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more and less than \$7,500"

(or)

(3) "\$7,500 or more and less than \$150,000"

(or)

(4) "\$150,000 or more and less than \$750,000"

(or)

(5) "\$750,000 or more and less than \$1,500,000"

(or)

(6) "\$1,500,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

28. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an

elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

(Use appropriate alternatives)

(1) less than \$1,000;

(or)

(2) \$1,000 or more and less than \$7,500;

(or)

(3) \$7,500 or more and less than \$150,000;

(or)

(4) \$150,000 or more and less than \$750,000;

(or)

(5) \$750,000 or more and less than \$1,500,000;

(or)

(6) \$1,500,000 or more.

(B) We, the jury, having found the defendant guilty of theft and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

(Use appropriate alternatives)

(1) less than \$1,000;

(or)

(2) \$1,000 or more and less than \$7,500;

(or)

(3) \$7,500 or more and less than \$37,500;

(or)

(4) \$37,500 or more and less than \$150,000;

(or)

(5) \$150,000 or more.

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.02 Theft R.C. 2913.02 (offenses committed on and after 9/16/14) [Rev. 1/9/16]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with (theft) (theft of a [firearm] [dangerous ordnance]) (theft of a motor vehicle) (theft of dangerous drugs) (theft of a [police dog] [police horse] [assistance dog]) (theft of anhydrous ammonia) (theft of a special purpose article or articles) (theft of a bulk merchandise container or containers). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to deprive the owner of (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drugs] [(police dog) (police horse) (assistance dog) while the defendant knew or should have known it was a (police dog) (police horse) (assistance dog)] [anhydrous ammonia] [special purpose article or articles] [bulk merchandise container or containers]), knowingly (obtained) (exerted control over) the (describe specific [property] [rented property] [services] [firearm] [dangerous ordnance] [motor vehicle] [dangerous drugs] [police dog] [police horse] [assistance dog] [anhydrous ammonia] [special purpose article or articles] [bulk merchandise container or containers])

(Use appropriate alternative[s])

(A)(1) without the consent of the (owner) (person authorized to give consent);

(or)

(A)(2) beyond the scope of the (express) (implied) consent of the (owner) (person authorized to give consent);

(or)

(A)(3) by deception;

(or)

(A)(4) by threat;

(or)

(A)(5) by intimidation.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01.

4. RENTED PROPERTY. R.C. 2913.01.

5. SERVICES. "Services" include labor, personal services, professional services, rental services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

Drawn from R.C. 2913.01.

6. CABLE TELEVISION SERVICES. R.C. 2913.01.

7. FIREARM. R.C. 2923.11.

8. DANGEROUS ORDNANCE. R.C. 2923.11.

9. MOTOR VEHICLE. R.C. 4501.01.

10. DANGEROUS DRUG. R.C. 2749.01.

11. POLICE DOG, POLICE HORSE, OR ASSISTANCE DOG. R.C. 2913.01, R.C. 2921.321.

12. ANHYDROUS AMMONIA. R.C. 2913.01.

13. SPECIAL PURPOSE ARTICLE(S). R.C. 4737.04.

COMMENT

If the value of the special purpose article is less than \$7,500, then the offense is a fifth degree felony. R.C. 2913.01(B)(9).

14. BULK MERCHANDISE CONTAINER(S). R.C. 4737.012.

COMMENT

If the value of the bulk merchandise container is less than \$7,500, then the offense is a fifth degree felony. R.C. 2913.01(B)(9).

15. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

16. DEPRIVE. R.C. 2913.01.

17. OWNER. "Owner" means any person, other than the defendant, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01.

18. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

19. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73.

This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

20. DECEPTION. R.C. 2913.01.

21. THREAT. "Threat" means (a statement) (conduct) (*describe other means of communication*), whether direct or indirect, exerting pressure sufficient to (overcome the will of another) (make another fearful or apprehensive of injury or harm).

COMMENT

OJI-CR 417.35.

22. **INTIMIDATION.** “Intimidation” means the act of frightening, scaring, or bullying.

23. **SHOULD HAVE KNOWN.** In deciding whether the defendant should have known that the animal was a (police dog) (police horse) (assistance dog), you must put yourself in the position of this defendant with his/her knowledge or lack of knowledge and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to know that the animal was a (police dog) (police horse) (assistance dog).

COMMENT

Drawn from OJI-CR 511.01(B).

24. **ADDITIONAL FINDINGS:**

(A) **VALUE.** OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.61.

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) **AGGREGATE VALUE.** OJI-CR 425.23; R.C. 2913.61(B).

(C) **SPECIAL PROPERTY.** OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.71.

COMMENT

The Committee believes that the appropriate additional finding verdict form should be used to determine the special property.

(D) **PROTECTED CLASS.** R.C. 2913.02(B).

(E) **ELDERLY PERSON.** R.C. 2913.01, R.C. 2913.02(B).

(F) **DISABLED ADULT.** R.C. 2913.01, R.C. 2913.02(B).

(G) **ACTIVE DUTY SERVICE MEMBER.** R.C. 2913.01, R.C. 2913.02(B).

(H) **SPOUSE OF ACTIVE DUTY SERVICE MEMBER.** R.C.2013.02(B).

(I) PRIOR CONVICTION FOR FELONY DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2913.02(B), R.C. 2925.01.

COMMENT

The Committee believes that an additional finding for a prior conviction of a felony drug abuse offense applies only to a theft of dangerous drugs charge.

(J) FAILURE TO MAKE FULL PAYMENT FOR GASOLINE. R.C. 2913.02(B).

(K) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.02(B). If you find the defendant guilty of theft of a firearm or dangerous ordnance, then you must decide beyond a reasonable doubt whether the firearm or dangerous ordnance was stolen from a federally licensed firearms dealer.

(L) THEFT OF RENTED PROPERTY OR RENTAL SERVICES.

COMMENT

R.C. 2913.02(B) provides that the court may order restitution if the defendant stole rented property or rental services when there is a determination of the amount of restitution. The court must instruct the jury as to what it shall consider as evidence of the defendant's intent to commit theft of rented property or rental services. R.C. 2913.72.

(M) DEFINITIONS:

(1) FEDERALLY LICENSED FIREARMS DEALER. R.C. 2913.01, R.C. 5502.63.

(2) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(3) DISABLED ADULT. R.C. 2913.01.

(4) ACTIVE DUTY SERVICE MEMBER. "Active Duty Service Member" means any member of the armed forces of the United States performing active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard.

COMMENT

Drawn from R.C. 2913.01 and 10 U.S.C. 101.

(5) ACTIVE DUTY. "Active Duty" means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

COMMENT

10 U.S.C. 101.

25. CONCLUSION. OJI-CR 425.01.

26. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

27. VERDICT FORM.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more and less than \$7,500"

(or)

(3) "\$7,500 or more and less than \$150,000"

(or)

(4) "\$150,000 or more and less than \$750,000"

(or)

(5) "\$750,000 or more and less than \$1,500,000"

(or)

(6) "\$1,500,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

28. PROTECTED CLASS VERDICT FORM(S).**COMMENT**

If there is a question of fact as to whether the victim of the offense is an elderly person, a disabled adult, an active duty service member or a spouse of an active duty service member, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of theft, further find beyond a reasonable doubt that the victim * _____ a person in protected class.

*Insert in ink: "was" or "was not"

If you found that the victim was not a person in protected class, use the verdict form listed in (A). If you found that the victim was a person in protected class, use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of theft and that the victim was not a person in protected class further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was ** _____.

** Insert in ink: _____

(Use appropriate alternative[s])

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more and less than \$7,500"

(or)

(3) "\$7,500 or more and less than \$150,000"

(or)

(4) "\$150,000 or more and less than \$750,000"

(or)

(5) "\$750,000 or more and less than \$1,500,000"

(or)

(6) "\$1,500,000 or more"

(B) We, the jury, having found the defendant guilty of theft and that the victim was a person in protected class, further find beyond a reasonable doubt that the value of the (property) (rented property) (services) that was/were (stolen) (destroyed) (involved) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more and less than \$7,500"

(or)

(3) "\$7,500 or more and less than \$37,500"

(or)

(4) "\$37,500 or more and less than \$150,000"

(or)

(5) "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

(C) SERIES OF OFFENSES WITH SINGLE VICTIM WHO IS AN ELDERLY PERSON OR DISABLED ADULT. If you find beyond a reasonable doubt that the defendant (committed) (attempted to commit) (conspired to commit) (acted in complicity to commit) a series of offenses against a/an (elderly person) (disabled adult) in the defendant's same (employment) (capacity) (relationship) to *(insert name of other person or entity)*, the value of the (property) (services) involved for the purpose of determining value is the aggregate value of all (property) (services) involved in the series of offenses. It is not necessary to allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the defendant, within a given span of time, committed one or more offenses.

COMMENT

Drawn from R.C. 2913.61(C)(1).

The Committee believes this instruction is limited to offenses involving an elderly person or disabled adult and the violation of R.C. 1716.14(A)(1) (Deceptive

practice or act to solicit contributions for charitable organization), R.C. 2913.02 (Theft), R.C. 2913.03 (Unauthorized use of vehicle), R.C. 2913.04 (Unauthorized use of property), R.C. 2913.21(B)(1) or (B)(2) (Misuse of credit card), R.C. 2913.31 (Forgery), and R.C. 2913.43 (Securing writings by deception).

CR 513.03 Unauthorized use of a vehicle R.C. 2913.03 (offenses committed on and after 7/1/96 but before 11/10/99) [Rev. 5/7/16]

1. The defendant is charged with unauthorized use of a vehicle. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant knowingly (used) (operated) a/an (aircraft) (motor vehicle) (motorcycle) (motorboat) (motor-propelled vehicle)

(Use appropriate alternative)

(A) without the consent of the (owner) (person authorized to give consent);

(or)

(B) without the consent of the (owner) (person authorized to give consent) and (removed the [describe property] from the state of Ohio) (kept possession of the [describe property] for more than forty-eight hours).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. AIRCRAFT. R.C. 4561.01.

4. MOTOR VEHICLE. R.C. 4501.01.

5. MOTORCYCLE. R.C. 4501.01.

6. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

COMMENT

Drawn from *State v. Ater*, 2nd Dist. Champaign No. 81CA23 (Feb. 24, 1982).

7. OWNER. "Owner" means any person, other than the defendant, who is the owner of, or who has possession or control of, or any license or interest in, the (describe property), even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01. The following statutes may provide means of proving

ownership: R.C. 4561.17-22 (Certificate of registration of aircraft); 49 U.S.C. 44103, 44111, 44702 & 44704 (Certificate of registration, recording conveyance of aircraft); 49 U.S.C. 44108 (Validity of conveyance of aircraft); R.C. 1548.04 (Certificate of title to watercraft); and R.C. 4505.04 (Certificate of title of motor vehicles and motorcycles).

8. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) MISTAKE. R.C. 2913.03(C)(1).

The defendant claims that at the time of the alleged offense, he/she reasonably believed, though mistaken, that he/she was authorized to (use) (operate) the (*describe property*).

(C) AUTHORIZATION. R.C. 2913.03(C)(2).

The defendant claims that at the time of the alleged offense, he/she reasonably believed that the (owner) (person empowered to give consent) would have authorized him/her to (use) (operate) the (*describe property*).

(D) REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.03 Unauthorized use of a vehicle R.C. 2913.03 (offenses committed on and after 11/10/99 but before 9/30/11) [Rev. 5/7/16]

1. The defendant is charged with unauthorized use of a vehicle. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (used) (operated) a/an (aircraft) (motor vehicle) (motorcycle) (motorboat) (motor-propelled vehicle)

(*Use appropriate alternative*)

(A) without the consent of the (owner) (person authorized to give consent);

(*or*)

(B) without the consent of the (owner) (person authorized to give consent) and (removed the [*describe property*] from the state of Ohio) (kept possession of the [*describe property*] for more than forty-eight hours).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. AIRCRAFT. R.C. 4561.01.

4. MOTOR VEHICLE. R.C. 4501.01.

5. MOTORCYCLE. R.C. 4501.01.

6. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

COMMENT

Drawn from *State v. Ater*, 2nd Dist. Champaign No. 81CA23 (Feb. 24, 1982).

7. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should be read to the jury only if the capacity of the victim to consent is at issue.

8. OWNER. "Owner" means any person, other than the defendant, who is the owner of, or who has possession or control of, or any license or interest in, the (*describe property*), even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01. The following statutes may provide means of proving ownership: R.C. 4561.17-22 (Certificate of registration of aircraft); 49 U.S.C. 44103, 44111, 44702 & 44704 (Certificate of registration, recording conveyance of aircraft); 49 U.S.C. 44108 (Validity of conveyance of aircraft); R.C. 1548.04 (Certificate of title to watercraft); and R.C. 4505.04 (Certificate of title of motor vehicles and motorcycles).

9. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B) MISTAKE. R.C. 2913.03(C)(1).

The defendant claims that at the time of the alleged offense, he/she reasonably believed, though mistaken, that he/she was authorized to (use) (operate) the (*describe property*).

(C) AUTHORIZATION. R.C. 2913.03(C)(2).

The defendant claims that at the time of the alleged offense, he/she reasonably

believed that the (owner) (person empowered to give consent) would have authorized him/her to (use) (operate) the (*describe property*).

(D) REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.

10. ADDITIONAL FINDINGS:

(A) GENERAL. OJI-CR 425.25.

(B) VALUE. OJI-CR 425.23; R.C. 2913.03(D), R.C. 2913.61.

(C) ELDERLY PERSON. R.C. 2913.01, R.C. 2913.03(D).

(D) DISABLED ADULT. R.C. 2913.01, R.C. 2913.03(D).

(E) DEFINITIONS:

(1) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(2) DISABLED ADULT. R.C. 2913.01

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

14. VALUE VERDICT FORM.

We, the jury, having found the defendant guilty of unauthorized use of the (*describe property*), further find beyond a reasonable doubt that the value of the (*describe property*) that was (used) (operated) was * _____.

* Insert in ink your finding from the following alternatives:

(A) "less than \$500"

(B) "\$500 or more and less than \$5,000"

(C) "\$5,000 or more and less than \$25,000"

(D) "\$25,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

15. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of unauthorized use of the (*describe property*), further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use verdict form (1). If you found that the victim was a/an (elderly person) (disabled adult), use verdict form (2).

(1) We, the jury, having found the defendant guilty of unauthorized use of the (*describe property*) and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (*describe property*) that was (used) (operated) was * _____.

* Insert in ink your finding from the following alternatives:

- (A) "less than \$500"
- (B) "\$500 or more and less than \$5,000"
- (C) "\$5,000 or more and less than \$25,000"
- (D) "\$25,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

(2) We, the jury, having found the defendant guilty of unauthorized use of (*describe property*) and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (*describe property*) that was (used) (operated) was * _____.

* Insert in ink your finding from the following alternatives:

- (A) "less than \$500"
- (B) "\$500 or more and less than \$5,000"
- (C) "\$5,000 or more and less than \$25,000"

(D) "\$25,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.03 Unauthorized use of a vehicle R.C. 2913.03 (offenses committed on and after 9/30/11) [Rev. 5/7/16]

1. The defendant is charged with unauthorized use of a vehicle. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (used) (operated) a/an (aircraft) (motor vehicle) (motorcycle) (motorboat) (motor-propelled vehicle)

(Use appropriate alternative)

(A) without the consent of the (owner) (person authorized to give consent);

(or)

(B) without the consent of the (owner) (person authorized to give consent) and (removed the [*describe property*] from the state of Ohio) (kept possession of the [*describe property*] for more than forty-eight hours).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. AIRCRAFT. R.C. 4561.01.

4. MOTOR VEHICLE. R.C. 4501.01.

5. MOTORCYCLE. R.C. 4501.01.

6. CONSENT. Consent may be either express or implied. Express consent is determined by the written or spoken words of the persons involved. Implied consent is determined by the facts and circumstances that surround those involved, including their words and acts, from which you may infer that consent was given to the defendant.

COMMENT

Drawn from *State v. Ater*, 2nd Dist. Champaign No. 81CA23 (Feb. 24, 1982).

7. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should be read to the jury only if the capacity of the victim to consent is at issue.

8. OWNER. "Owner" means any person, other than the defendant, who is the owner of, or who has possession or control of, or any license or interest in, the (*describe property*), even though the ownership, possession, control, license, or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01. The following statutes may provide means of proving ownership: R.C. 4561.17-22 (Certificate of registration of aircraft); 49 U.S.C. 44103, 44111, 44702 & 44704 (Certificate of registration, recording conveyance of aircraft); 49 U.S.C. 44108 (Validity of conveyance of aircraft); R.C. 1548.04 (Certificate of title to watercraft); and R.C. 4505.04 (Certificate of title of motor vehicles and motorcycles).

9. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B) MISTAKE. R.C. 2913.03(C)(1).

The defendant claims that at the time of the alleged offense, he/she reasonably believed, though mistaken, that he/she was authorized to (use) (operate) the (*describe property*).

(C) AUTHORIZATION. R.C. 2913.03(C)(2).

The defendant claims that at the time of the alleged offense, he/she reasonably believed that the (owner) (person empowered to give consent) would have authorized him/her to (use) (operate) the (*describe property*).

(D) REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.

10. ADDITIONAL FINDINGS:

(A) GENERAL. OJI-CR 425.25.

(B) VALUE. OJI-CR 425.23; R.C. 2913.03(D), R.C. 2913.61.

(C) ELDERLY PERSON. R.C. 2913.01, R.C. 2913.03(D).

(D) DISABLED ADULT. R.C. 2913.01, R.C. 2913.03(D).

(E) DEFINITIONS:

(1) ELDERLY PERSON. "Elderly person" means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(2) DISABLED ADULT. R.C. 2913.01

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

14. VALUE VERDICT FORM.

We, the jury, having found the defendant guilty of unauthorized use of the (*describe property*) further find beyond a reasonable doubt that the value of the (*describe property*) that was (used) (operated) was * _____.

* Insert in ink your finding from the following alternatives:

(A) "less than \$1,000"

(B) "\$1,000 or more and less than \$7,500"

(C) "\$7,500 or more and less than \$37,500"

(D) "\$37,500 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

15. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of unauthorized use of the (*describe property*), further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use verdict

form (1). If you found that the victim was a/an (elderly person) (disabled adult), use verdict form (2).

(1) We, the jury, having found the defendant guilty of unauthorized use of the (*describe property*) and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (*describe property*) that was (used) (operated) was * _____.

* Insert in ink your finding from the following alternatives:

- (A) "less than \$1,000"
- (B) "\$1,000 or more and less than \$7,500"
- (C) "\$7,500 or more and less than \$37,500"
- (D) "\$37,500 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

(2) We, the jury, having found the defendant guilty of unauthorized use of (*describe property*) and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (*describe property*) that was (used) (operated) was * _____.

* Insert in ink your finding from the following alternatives:

- (A) "less than \$1,000"
- (B) "\$1,000 or more and less than \$7,500"
- (C) "\$7,500 or more and less than \$37,500"
- (D) "\$37,500 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.04 Unauthorized use of property R.C. 2913.04 (offenses committed on and after 7/1/96)

1. The defendant is charged with unauthorized use of property. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County)

(other jurisdiction), Ohio, the defendant knowingly

(Use appropriate alternative)

(A) (used) (operated) (*describe property*) of another without the consent of the (owner) (person authorized to give consent).

(or)

(B) (gained access) (attempted to gain access) (caused access to be gained) to any (computer) (computer system) (computer network) (without the consent) (beyond the scope of the [express] [implied] consent) of the (owner) (person authorized by the owner to give consent).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PROPERTY. R.C. 2901.01(A)(10)(a).

4. CONSENT. OJI-CR 513.02 § 9.

5. OWNER. “Owner” means any person, other than the defendant, who is the owner of, or who has possession or control of, or any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.

COMMENT

Drawn from R.C. 2913.01(D).

6. PERSON AUTHORIZED TO GIVE CONSENT.

COMMENT

Depending on the facts, an instruction may be required on this essential element.

7. GAIN ACCESS. “Gain access” means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

COMMENT

R.C. 2913.01(T).

8. COMPUTER. R.C. 2913.01(M).

9. COMPUTER SYSTEM. R.C. 2913.01(N).

10. COMPUTER NETWORK. R.C. 2913.01(O).

11. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B) REASONABLE BELIEF. R.C. 2913.03(C)(1) and (2).

The defendant claims that at the time of the alleged offense he/she reasonably believed, (though mistaken, that he/she was authorized) (the [owner] [person empowered to give consent] would authorize him/her) to (use) (operate) the (*describe property*) (computer) (computer system) (computer network).

In deciding whether the defendant reasonably believed that he/she (was authorized) (would be authorized) to (use) (operate) the (*describe property*) (computer) (computer system) (computer network), you must put yourself in the position of this defendant, with his/her characteristics, and with his/her knowledge or lack of knowledge, and under the facts and circumstances which surrounded him/her at the time. You must consider the conduct of the persons involved and decide if their acts and words and all the surrounding facts and circumstances would have caused the defendant to reasonably believe that he/she (was authorized) (would be authorized) to (use) (operate) the (*describe property*) (computer) (computer system) (computer network).

12. ADDITIONAL FINDINGS:

DEVISING OR EXECUTING A SCHEME TO DEFRAUD OR OBTAIN PROPERTY OR SERVICES. OJI-CR 425.25; R.C. 2913.04(D).

VALUE. OJI-CR 425.23; R.C. 2913.04(D), 2913.61.

13. CONCLUSION. OJI-CR 425.01.

14. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

15. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

CR 513.05 Telecommunications fraud R.C. 2913.05 (offenses committed on and after 3/30/99 but before 6/8/12) [Rev. 5/6/17]

1. The defendant is charged with telecommunications fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant devised a scheme to defraud and knowingly (disseminated) (transmitted) (caused to be [disseminated] [transmitted]) by means of a (wire) (radio) (satellite) (telecommunication) (telecommunications device) (telecommunications service) any (writing) (data) (sign) (signal) (picture) (sound) (image) with purpose to (execute) (further) the scheme to defraud.

2. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

3. DECEPTION. R.C. 2913.01.
4. KNOWINGLY. OJI-CR 417.11; R.C.2901.22(B).
5. TELECOMMUNICATION. R.C.2913.01.
6. TELECOMMUNICATIONS DEVICE. R.C. 2913.01.
7. TELECOMMUNICATIONS SERVICE. R.C. 2913.01.
8. WRITING. R.C. 2913.01.
9. DATA. "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network.

COMMENT

R.C. 2913.01.

10. PURPOSELY. OJI-CR 417.01; R.C.2901.22 (A).
11. ADDITIONAL FINDINGS:
 - (A) VALUE. OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.61.
12. CONCLUSION. OJI-CR 425.01.
13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.
14. VERDICT FORM—VALUE. We, the jury, having found the defendant guilty of telecommunications fraud, further find beyond a reasonable doubt that the value of the (benefit obtained by the defendant) (detriment to [insert name of victim]) was * _____.

* Insert in ink one of the following categories:

(Use appropriate alternative)

COMMENT

The court should select the following monetary range set forth in the indictment and all lesser monetary ranges reasonably raised by the evidence.

(1) "less than \$5,000";

(or)

(2) "\$5,000 or more but less than \$100,000";

(or)

(3) "\$100,000 or more."

CR 513.05 Telecommunications fraud R.C. 2913.05 (offenses committed on and after 6/8/12) [Rev. 5/6/17]

1. The defendant is charged with telecommunications fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant devised a scheme to defraud and knowingly (disseminated) (transmitted) (caused to be [disseminated] [transmitted]) by means of a (wire) (radio) (satellite) (telecommunication) (telecommunications device) (telecommunications service) any (writing) (data) (sign) (signal) (picture) (sound) (image) with purpose to (execute) (further) the scheme to defraud.

2. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

3. DECEPTION. R.C. 2913.01.
4. KNOWINGLY. OJI-CR 417.11; R.C.2901.22(B).
5. TELECOMMUNICATION. R.C. 2913.01.
6. TELECOMMUNICATIONS DEVICE. R.C. 2913.01.
7. TELECOMMUNICATIONS SERVICE. R.C. 2913.01.
8. WRITING. R.C. 2913.01.
9. DATA. "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system, or computer network.

COMMENT

R.C. 2913.01.

10. PURPOSELY. OJI-CR 417.01; R.C.2901.22(A).
11. ADDITIONAL FINDINGS:

(A) AGGREGATE VALUE. If you find the defendant guilty of telecommunications fraud and the offense was part of a course of conduct involving (a violation of telecommunications fraud) (a/an [violation] [attempt to violate] [conspiracy to violate] [complicity to violate] [*insert specific offense*]) then you may aggregate the (value of the benefit obtained by the defendant) (detriment to [*insert name of victim*])

involved in that course of conduct. The course of conduct may involve one or more victims.

COMMENT

Drawn from R.C. 2913.05(B). The specific offenses that may permit aggregation of value, in addition to telecommunications fraud, are limited to R.C. 2913.02 (theft), R.C. 2913.04 (unauthorized use of property), R.C. 2913.11 (passing bad checks), R.C. 2913.21 (misuse of credit card), R.C. 2913.31 (forgery), R.C. 2913.42 (tampering with records), R.C. 2913.43 (securing writings by deception), or R.C. 2921.13 (falsification).

(B) VALUE. OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.61.

(C) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(D) COURSE OF CONDUCT. "Course of conduct" means that there is some factual link between the (*insert name of offense the defendant committed*) and the other offense(s) that the defendant committed. The factual link can be one of time, location, means, (*describe other factual link[s]*), or similar motivation on the defendant's part for his/her/its crimes. All of the circumstances of the offenses must be taken into account, and there must be some connection, common (scheme) (plan), pattern, or psychological thread that ties the offense together. The course of conduct may involve one victim or more than one victim.

COMMENT

Drawn from R.C. 2913.49(H); *State v. Hand*, 107 Ohio St.3d 378, 2006-Ohio-18; *State v. Sapp*, 105 Ohio St. 3d 104, 2004-Ohio-7008.

(E) ATTEMPT. OJI-CR 523.02.

(F) CONSPIRACY. OJI-CR 523.01.

(G) COMPLICITY. OJI-CR 523.03.

12. CONCLUSION. OJI-CR 425.01.

13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

14. VERDICT FORM—VALUE. We, the jury, having found the defendant guilty of telecommunications fraud, further find beyond a reasonable doubt that the value of the (benefit obtained by the defendant) (detriment to [*insert name of victim*]) was

* _____.

* Insert in ink one of the following categories:

(Use appropriate alternative)

COMMENT

The court should select the following monetary range set forth in the indictment and all lesser monetary ranges reasonably raised by the evidence.

(1) “less than \$ 1,000”;

(or)

(2) “\$1,000 or more but less than \$7,500”;

(or)

(3) “\$7,500 or more but less than \$150,000”;

(or)

(4) “\$150,000 or more but less than \$1,000,000”;

(or)

(5) “\$1,000,000 or more.”

CR 513.07 Motion picture piracy R.C. 2913.07 (offenses committed on and after 3/9/04) [Rev. 1/21/18]

1. The defendant is charged with motion picture piracy. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly operated an audiovisual recording function of a device in a facility in which a motion picture was shown without the written consent of the (owner) (lessee) of the facility and the licensor of the motion picture.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. AUDIOVISUAL RECORDING FUNCTION. “Audiovisual recording function” means the capability of a device to (record) (transmit) a motion picture or any part of a motion picture by means of any technology.

COMMENT

Drawn from R.C. 2913.07.

4. MOTION PICTURE.

COMMENT

The Committee believes the term “motion picture” is a term with a common meaning. If a jury question arises about the term “motion picture,” R.C. 122.85,

which relates to tax credit eligible productions, has a statutory definition of “motion picture” that may provide some guidance to the trial court.

5. FACILITY. “Facility” means all retail establishments and movie theaters.

COMMENT

Drawn from R.C. 2913.07.

6. OWNER. OJI-CR 417.15; R.C. 2913.01.

7. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) GOVERNMENTAL PURPOSE.

The defendant claims that he/she was a lawfully authorized ([investigative] [law enforcement] [protective] [intelligence gathering]) ([employee] [agent]) of the ([government of this state] [political subdivision of this state] [federal government]) and was acting in an official capacity when operating an audiovisual recording function of a device in any facility in which a motion picture was being shown.

COMMENT

R.C. 2913.05(D) creates an exception to the prohibition of R.C. 2913.05(B). The Committee believes this is an affirmative defense under R.C. 2901.05(D) or in the nature of an affirmative defense and must be treated as such. See *State v. Little* 8th Dist. Cuyahoga No. 57033 (Mar. 14, 1991); *State v. Hassell* 1st Dist. Hamilton No. C-920530 (May 5, 1993).

In *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792, the Supreme Court held that “R.C. 2925.03(B)(1) excludes licensed health professionals from being subject to drug-trafficking charges, and the burden of proving the inapplicability of this exclusion rests upon the State. Therefore, to convict a licensed health professional of trafficking in drugs under R.C. 2925.03(A), the State bears the burden of proving beyond a reasonable doubt the inapplicability of the licensed-health-professional exception in R.C. 2925.03(B)(1) by submitting evidence that the licensed health professional violated statutes or regulations that define the standard of care for dispensing controlled substances.”

The Committee recognizes that this case presents a dilemma for the trial judge as to when to instruct the jury that the state must prove that the exception in the criminal statute does not apply to the defendant. The Committee believes that *Nucklos* should only apply when the defendant’s status or circumstances suggest potential application of an exemption or exception. Compare *State v. Durbin*, 9th Dist. Summit No. 10CA0136-M, 2012-Ohio-301, which holds that the exception is always an element of the offense that the state must prove beyond a reasonable doubt, with *Miamisburg v. Hanson*, 2d Dist. Montgomery No. 26582, 2016-Ohio-

964, which disagrees with the holding in *Durbin*.

8. ADDITIONAL FINDING:

(A) PRIOR CONVICTION. OJI-CR 425.15.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.041 Possession or sale of unauthorized device R.C. 2913.041 (offenses committed on and after 7/1/96)

1. The defendant is charged with (possession) (sale) of an unauthorized device. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant knowingly

(Use appropriate alternative[s])

(A) possessed any (device) (instrument) (apparatus) (computer chip) (equipment) (decoder) (descrambler) (converter) (software) (*describe other device*) specially (adapted) (modified) (remanufactured) for gaining access to cable television service, without (securing authorization from) (paying the required compensation to) the (owner) (operator) of the system that provides the cable television service.

(or)

(B) (sold) (distributed) (manufactured) any (device) (instrument) (apparatus) (computer chip) (equipment) (decoder) (descrambler) (converter) (software) (*describe other device*) specially (adapted) (modified) (remanufactured) for gaining access to cable television service, without (securing authorization from) (paying the required compensation to) the (owner) (operator) of the system that provides the cable television services.

2. POSSESS. OJI-CR 417.21; R.C. 2901.21(C)(1).

3. GAIN ACCESS. "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

COMMENT

R.C. 2913.01(T).

4. CABLE TELEVISION SERVICE. R.C. 2913.01(S).

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.11 Passing bad checks R.C. 2913.11 (offenses committed on and after 7/1/96 but before 5/18/05) [Rev. 10/13/18]

1. The defendant is charged with passing (a) bad check(s). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to defraud, (issued) (transferred) (caused to be issued) (caused to be transferred) a (*describe check or other negotiable instrument*) knowing that (it) (they) would be dishonored.

2. KNOWLEDGE - PRESUMPTION. OJI-CR 417.33.

COMMENT

When tailoring an instruction on a permissive presumption in accordance with OJI-CR 417.33(1) the trial judge must use the language from R.C. 2913.11(B)(1) and/or (2). In using this language the judge should define specific statutory terms such as “issued” (R.C. 1303.01(A)(1)); “transferred” (R.C. 1303.22); “presentment” (R.C. 1303.59(A)); “notice of dishonor” (R.C. 1303.63).

3. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

4. DEFRAUD. “Defraud” means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B).

5. DECEPTION. OJI-CR 513.02 § 10; R.C. 2913.01(A).

6. PRESUMED PURPOSE TO DEFRAUD. OJI-CR 417.33.

COMMENT

When tailoring an instruction on a permissive presumption in accordance with OJI-CR 417.33(1) the trial judge must use the language from R.C. 2913.11(C)(1), (2), or (3).

The Committee believes that R.C. 2913.11(C) applies only if the defendant is the drawer.

7. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

8. ADDITIONAL FINDING:

VALUE. OJI-CR 425.23; R.C. 2913.11(D), 2913.61.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09; OJI-CR 425.11.

CR 513.11 Passing bad checks R.C. 2913.11 (offenses committed on and after 5/18/05 but before 9/30/11) [Rev. 10/13/18]

1. The defendant is charged with passing bad checks. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to defraud, (issued) (transferred) (caused to be [issued] [transferred]) one or more (checks) (*describe other negotiable instrument[s]*) knowing that (the [check] [*describe other negotiable instrument*] would be dishonored) (any person [had ordered] [would order] stop payment on the [check] [*describe other negotiable instrument*]).

2. PRESUMPTION OF KNOWLEDGE. If you find beyond a reasonable doubt that

(Use appropriate alternative[s])

(A) (*insert name of drawer*) of the (check) (*describe other negotiable instrument*) had no account with (*insert name of drawee*) when the (check) (*describe other negotiable instrument*) was issued or on the payment date stated on that document;

(or)

(B) the (check) (*describe other negotiable instrument*) was presented for payment on the later of 30 days after it was issued or 30 days after the payment date stated on the document and payment on it was properly refused because of insufficient funds, and if the obligation of (*insert name of drawer, indorser, or other party liable on the document*) on the document was not discharged by payment or satisfaction within 10 days after that person or entity received the notice of dishonor;

then you may, but are not required to, conclude that the defendant knew that the (check) (*describe other negotiable instrument*) would be dishonored. The fact that you may draw this conclusion does not shift the burden of proof from the state to the defendant, and the defendant has no burden to introduce evidence on whether he/she/it knew that the (check) (*describe other negotiable instrument*) would be dishonored.

COMMENT

Drawn from R.C. 2913.11(C). See also *State v. Yoder*, 5th Dist. Licking No. 16-CA-54, 2017-Ohio-903.

3. ISSUED. "Issued" means the first delivery of (a check) (*describe other negotiable*

instrument) by (insert name of maker) (insert name of drawer) to (insert name of holder) (insert name of nonholder) for the purpose of giving rights of the instrument to any person.

COMMENT

R.C. 1303.01.

4. ISSUED A CHECK. "Issued a check" means causing any form of debit from a demand deposit account.

COMMENT

R.C. 2913.11.

5. TRANSFER. "Transfer" means the delivery of (a check) (*describe other negotiable instrument*) by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the (check) (*describe other negotiable instrument*).

COMMENT

Drawn from R.C. 1303.22.

6. CHECK. R.C. 2913.11.

7. NEGOTIABLE INSTRUMENT. R.C. 1303.03.

8. DISHONOR. R.C. 1303.63(B).

9. STOP PAYMENT. R.C. 1304.32.

10. PRESENTMENT. R.C. 1303.61.

11. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

12. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

13. DECEPTION. R.C. 2913.01.

14. PRESUMPTION OF PURPOSE TO DEFRAUD. If you find beyond a reasonable

doubt that the defendant (wrote the check) (signed the bill of exchange) (ordered payment on [*describe other draft*]) and that he/she opened the checking account for personal, family, or household purposes at a financial institution, and if you find beyond a reasonable doubt that, when opening the checking account, the defendant

(Use appropriate alternative[s])

(A) falsely stated that he/she had not been issued a valid (driver's license) (commercial driver's license) (Ohio identification card);

(or)

(B) furnished a/an (driver's license) (Ohio identification card) (*describe other identifying documentation*) that contained false information;

(or)

(C) made a false statement concerning his/her current address or any additional relevant information reasonably required by the financial institution;

then you may, but are not required to, conclude that the defendant had a purpose to defraud when he/she/it (issued) (transferred) the (check) (bill of exchange) (*describe other draft*). The fact that you may draw this conclusion does not shift the burden of proof from the state to the defendant, and the defendant has no burden to introduce evidence on whether he/she/it had a purpose to defraud.

COMMENT

Drawn from R.C. 2913.11(D).

The Committee believes that R.C. 2913.11(D) applies only if the defendant is the drawer.

15. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

16. ADDITIONAL FINDING:

(A) VALUE. OJI-CR 425.23; R.C. 2913.11(E), R.C. 2913.61.

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

(B) TOTAL VALUE. OJI-CR 425.23; R.C. 2913.11(E), R.C. 2913.61.

COMMENT

The Committee is not providing an instruction regarding "total value." R.C.

2913.11(E) refers to aggregation of value for a violation of R.C. 2913.11(A). R.C. 2913.11(A) is a definitional section and does not prescribe a criminal offense. The Committee believes that aggregation of value for violation of R.C. 2911.13(B) is not permissible because subsection (E) is limited to subsection (A).

While this may be the result of a legislative oversight, “[t]here is no authority under any rule of statutory construction to add to, enlarge, supply, expand, extend or improve the provisions of a statute to meet a situation not provided for.” *State ex rel. Foster v. Evatt*, 144 Ohio St. 65 (1944), paragraph eight of the syllabus. *See also, State v. Nixon*, 4th Dist. Highland, No. 633 (Apr. 26, 1988) (“It is the duty of the court to apply statutes as enacted and not by judicial construction to extend it to subjects not included in its terms”). This position is also consistent with R.C. 2901.04(A), which requires criminal statutes to be strictly construed against the state and liberally construed in favor of the accused.

But see State v. O’Bryan, 181 Ohio App.3d 247, 2009-Ohio-753 (10th Dist.), in which the court construed the aggregation provision of R.C. 2913.11(E) to apply to R.C. 2913.11(B) concluding that to interpret the statute in the way it was enacted would render the aggregation provision a nullity. No other appellate district has addressed this issue.

17. CONCLUSION. OJI-CR 425.01.
18. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.
19. GENERAL VERDICT FORM. OJI-CR 425.33.
20. ADDITIONAL FINDING VERDICT FORM.

COMMENT

The Committee believes that aggregation of value for violation of R.C. 2911.13(B) is not permissible because subsections (E) and (F) are limited to subsection (A). Therefore, the Committee believes that a separate verdict form is required for each check.

The Committee also believes that the following verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

We, the jury, having found the defendant guilty of passing bad checks, further find beyond a reasonable doubt that the value of the (check) (*describe other negotiable instrument*) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) “less than \$500”

(or)

(2) “\$500 or more but less than \$5,000”

COMMENT

The Committee believes that aggregation of value for violation of R.C. 2911.13(B) is not permissible because subsections (E) and (F) are limited to subsection (A). Therefore, the Committee believes that a separate verdict form is required for each check.

(or)

(3) “\$5,000 or more but less than \$100,000”

(or)

(4) “\$100,000 or more”

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.11 Passing bad checks R.C. 2913.11 (offenses committed on and after 9/30/11) [Rev. 10/13/18]

1. The defendant is charged with passing bad checks. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to defraud, (issued) (transferred) (caused to be [issued] [transferred]) one or more (checks) (*describe other negotiable instrument[s]*) knowing that (the [check] [*describe other negotiable instrument*] would be dishonored) (any person [had ordered] [would order] stop payment on the [check] [*describe other negotiable instrument*]).

2. PRESUMPTION OF KNOWLEDGE. If you find beyond a reasonable doubt that

(Use appropriate alternative[s])

(A) (*insert name of drawer*) of the (check) (*describe other negotiable instrument*) had no account with (*insert name of drawee*) when the (check) (*describe other negotiable instrument*) was issued or on the payment date stated on that document;

(or)

(B) the (check) (*describe other negotiable instrument*) was presented for payment on the later of 30 days after it was issued or 30 days after the payment date stated on the document and payment on it was properly refused because of insufficient funds, and if the obligation of (*insert name of drawer, indorser, or other party liable on the document*) on the document was not discharged by payment or satisfaction within 10

days after that person or entity received the notice of dishonor; then you may, but are not required to, conclude that the defendant knew that the (check) (*describe other negotiable instrument*) would be dishonored. The fact that you may draw this conclusion does not shift the burden of proof from the state to the defendant, and the defendant has no burden to introduce evidence on whether he/she/it knew that the (check) (*describe other negotiable instrument*) would be dishonored.

COMMENT

Drawn from R.C. 2913.11(C). *See also State v. Yoder*, 5th Dist. Licking No. 16-CA-54, 2017-Ohio-903.

3. **ISSUED.** “Issued” means the first delivery of (a check) (*describe other negotiable instrument*) by (*insert name of maker*) (*insert name of drawer*) to (*insert name of holder*) (*insert name of nonholder*) for the purpose of giving rights of the instrument to any person.

COMMENT

R.C. 1303.01.

4. **ISSUED A CHECK.** “Issued a check” means causing any form of debit from a demand deposit account.

COMMENT

R.C. 2913.11.

5. **TRANSFER.** “Transfer” means the delivery of (a check) (*describe other negotiable instrument*) by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the (check) (*describe other negotiable instrument*).

COMMENT

Drawn from R.C. 1303.22.

6. **CHECK.** R.C. 2913.11.

7. **NEGOTIABLE INSTRUMENT.** R.C. 1303.03.

8. **DISHONOR.** R.C. 1303.63(B).

9. STOP PAYMENT. R.C. 1304.32.
10. PRESENTMENT. R.C. 1303.61.
11. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
12. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

13. DECEPTION. R.C. 2913.01.

14. PRESUMPTION OF PURPOSE TO DEFRAUD. If you find beyond a reasonable doubt that the defendant (wrote the check) (signed the bill of exchange) (ordered payment on *[describe other draft]*) and that he/she opened the checking account for personal, family, or household purposes at a financial institution, and if you find beyond a reasonable doubt that, when opening the checking account, the defendant

(Use appropriate alternative[s])

(A) falsely stated that he/she had not been issued a valid (driver's license) (commercial driver's license) (Ohio identification card);

(or)

(B) furnished a/an (driver's license) (Ohio identification card) (*describe other identifying documentation*) that contained false information;

(or)

(C) made a false statement concerning his/her current address or any additional relevant information reasonably required by the financial institution;

then you may, but are not required to, conclude that the defendant had a purpose to defraud when he/she/it (issued) (transferred) the (check) (bill of exchange) (*describe other draft*). The fact that you may draw this conclusion does not shift the burden of proof from the state to the defendant, and the defendant has no burden to introduce evidence on whether he/she/it had a purpose to defraud.

COMMENT

Drawn from R.C. 2913.11(D).

The Committee believes that R.C. 2913.11(D) applies only if the defendant is the drawer.

15. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

16. ADDITIONAL FINDING:

- (A) VALUE. OJI-CR 425.23; R.C. 2913.11(E), R.C. 2913.61.

COMMENT

The Committee believes that the appropriate additional finding verdict form below should be used to determine value.

- (B) TOTAL VALUE. OJI-CR 425.23; R.C. 2913.11(E), R.C. 2913.61.

COMMENT

The Committee is not providing an instruction regarding “total value.” R.C. 2913.11(E) refers to aggregation of value for a violation of R.C. 2913.11(A). R.C. 2913.11(A) is a definitional section and does not prescribe a criminal offense. The Committee believes that aggregation of value for violation of R.C. 2911.13(B) is not permissible because subsection (E) is limited to subsection (A).

While this may be the result of a legislative oversight, “[t]here is no authority under any rule of statutory construction to add to, enlarge, supply, expand, extend or improve the provisions of a statute to meet a situation not provided for.” *State ex rel. Foster v. Evatt*, 144 Ohio St. 65 (1944), paragraph eight of the syllabus. *See also, State v. Nixon*, 4th Dist. Highland, No. 633 (Apr. 26, 1988) (“It is the duty of the court to apply statutes as enacted and not by judicial construction to extend it to subjects not included in its terms”). This position is also consistent with R.C. 2901.04(A), which requires criminal statutes to be strictly construed against the state and liberally construed in favor of the accused.

But see State v. O’Bryan, 181 Ohio App.3d 247, 2009-Ohio-753 (10th Dist.), in which the court construed the aggregation provision of R.C. 2913.11(E) to apply to R.C. 2913.11(B) concluding that to interpret the statute in the way it was enacted would render the aggregation provision a nullity. No other appellate district has addressed this issue.

17. CONCLUSION. OJI-CR 425.01.

18. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

19. GENERAL VERDICT FORM. OJI-CR 425.33.

20. ADDITIONAL FINDING VERDICT FORM.

COMMENT

The Committee believes that aggregation of value for violation of R.C. 2911.13(B) is not permissible because subsections (E) and (F) are limited to

subsection (A). Therefore, the Committee believes that a separate verdict form is required for each check.

The Committee also believes that the following verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

We, the jury, having found the defendant guilty of passing bad checks, further find beyond a reasonable doubt that the value of the (check) (*describe other negotiable instrument*) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more but less than \$7,500"

COMMENT

The Committee believes that aggregation of value for violation of R.C. 2911.13(B) is not permissible because subsections (E) and (F) are limited to subsection (A). Therefore, the Committee believes that a separate verdict form is required for each check.

(or)

(3) "\$7,500 or more but less than \$150,000"

(or)

(4) "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 7/1/96 but before 11/10/99)

1. The defendant is charged with misuse of (a) credit card(s). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant

(Use appropriate alternative)

(A)(1) (practiced) (used) deception for the purpose of procuring the issuance of a credit card, when a credit card was issued in actual reliance upon the deception.

(or)

(A)(2) knowingly (bought) (sold) a credit card (from) (to) (*describe person*) who was not the issuer of the credit card.

(or)

(B)(1) with purpose to defraud, obtained control over a credit card as security for a debt.

(or)

(B)(2) with purpose to defraud, obtained (property) (services) by use of a credit card, (knowing) (having reasonable cause to believe) that the card (had expired) (had been revoked) (was obtained, retained or being used [*describe applicable statutory violation*]).

(or)

(B)(3) with purpose to defraud, furnished (property) (services) upon presentation of a credit card, knowing that the credit card was being used (*describe applicable statutory violation*).

(or)

(B)(4) with purpose to defraud, (represented) (caused to be represented) to the issuer of a credit card that (property) (services) had been furnished, knowing that the representation was false.

(or)

(C) with purpose to (*describe the violation of R.C. 2913.21*), (received) (possessed) (controlled) (disposed of) a credit card.

2. CREDIT CARD. R.C. 2913.01(U).

3. DECEPTION. R.C. 2913.01(A).

4. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

5. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

6. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B).

7. PROPERTY. R.C. 2901.01(A)(10)(a).

8. **SERVICES.** “Services” include labor, personal services, professional services, public utility services, common carrier services, food, drink, transportation, entertainment and cable television services.

COMMENT

R.C. 2913.01(E).

9. **ACTUAL RELIANCE.** A person acts in reliance when the (statements) (conduct) of another (induces) (causes) that person to act pursuant to such (statements) (conduct).

10. **ISSUE; ISSUER.** “Issue” means to give out, to distribute. “Issuer” means the (person) (organization) that gives out or distributes credit cards.

11. **SECURITY.** “Security” means something given as a pledge or guaranty of payment for services or property.

12. **VIOLATION OF LAW.**

COMMENT

Instructions must cover the elements of the pertinent statutory violation together with the meaning of the pertinent words and phrases.

13. **REASONABLE CAUSE TO BELIEVE.** In deciding whether the defendant had a reasonable cause to believe that the credit card had (expired) (been revoked) (been obtained, retained, or was being used in violation of law), you must decide from all the facts and circumstances in evidence whether a person of ordinary prudence and care would have believed that the credit card had (expired) (been revoked) (been obtained, retained, or was being used in violation of law).

14. **ADDITIONAL FINDING:**

SPECIAL FINDING FOR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS. OJI-CR 425.25; R.C. 2913.21(D)(3), 2913.21(B)(2), (3), or (4), 2913.61.

15. **CONCLUSION.** OJI-CR 425.01.

16. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 11/10/99 but before 9/30/11) [Rev. 12/8/18]

1. The defendant is charged with misuse of (a) credit card(s). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A)(1) practiced deception for the purpose of procuring the issuance of a credit card, when a credit card was issued in actual reliance upon the deception;

(or)

(A)(2) knowingly (bought) (sold) a credit card (from) (to) (*describe person*) who was not the issuer of the credit card;

(or)

(B)(1) with purpose to defraud, obtained control over a credit card as security for a debt;

(or)

(B)(2) with purpose to defraud, used the credit card in one or more transactions to obtain (property) (services), (knowing) (having reasonable cause to believe) that the card (had expired) (had been revoked) (was obtained, retained, or being used [*describe applicable statutory violation of law*]);

(or)

(B)(3) with purpose to defraud, furnished (property) (services) upon presentation of a credit card, knowing that the credit card was being used (*describe applicable statutory violation*);

(or)

(B)(4) with purpose to defraud, (represented) (caused to be represented) to the issuer of a credit card that (property) (services) had been furnished, knowing that the representation was false;

(or)

(C) with purpose to (*describe the violation of R.C. 2913.21*), (received) (possessed) (controlled) (disposed of) a credit card.

2. CREDIT CARD. R.C. 2913.01.

3. DECEPTION. R.C. 2913.01.

4. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

5. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

6. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

7. PROPERTY. R.C. 2901.01.

8. SERVICES. "Services" include labor, personal services, professional services, public utility services, common carrier services, food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

9. ACTUAL RELIANCE. A person acts in reliance when the (statement[s]) (conduct) of another (induce[s]) (cause[s]) that person to act pursuant to such (statement[s]) (conduct).

10. ISSUE. "Issue" means to give out, to distribute.

11. ISSUER. "Issuer" means the (person who) (organization that) gives out or distributes credit cards.

12. SECURITY. "Security" means something given as a pledge or guaranty of payment for services or property.

13. VIOLATION OF LAW. Before you can find that the credit card was being (obtained) (retained) (used) in violation of law, you must find beyond a reasonable doubt that the defendant (*describe the elements of the applicable offense*).

COMMENT

The trial court should instruct the jury on the elements of the applicable statutory violation by which the defendant obtained, retained, or used the credit card, even if that specific criminal offense is also being tried in a separate count. *State v. Riggs*, 5th Dist. Licking No. 2010 CA 20, 2010-Ohio-5697.

14. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.

15. ADDITIONAL FINDINGS:

(A) SPECIAL FINDING FOR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS. OJI-CR 425.25; R.C. 2913.21(D)(3), R.C. 2913.61.

In determining the cumulative retail value of the (property) (services) (property and services) involved, you may (aggregate) (add together) all (transactions) (uses) of one or more credit (card[s]) (card account[s]) within a 90-consecutive-day period beginning from the first use of the credit (card[s]) (card account[s]).

COMMENT

A special finding for cumulative retail value within 90 days applies only to

violations of R.C. 2913.21(B)(2), (B)(3), or (B)(4).

(B) SPECIAL FINDING FOR DEBT FOR WHICH THE CARD IS HELD AS SECURITY OR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS.

OJI-CR 425.25; R.C. 2913.21(D)(4), R.C. 2913.61.

In determining the (debt for which the card is held as security) (cumulative retail value of the [property] [services] [property and services] involved) when the victim was a/an (elderly person) (disabled adult), you may (aggregate) (add together) all (transactions) (uses) of one or more credit (card[s]) (card account[s]) within a 90-consecutive-day period beginning from the first use of the credit (card[s]) (card account[s]).

COMMENT

A special finding for the debt for which the card is held as security or the cumulative retail value within 90 days applies only to violations of R.C. 2913.21(B)(1) or (B)(2) and when the victim is an elderly person or disabled adult. *See* R.C. 2913.21(D)(4).

(1) ELDERLY PERSON. R.C. 2913.21(D)(4). You must determine whether the state has proven beyond a reasonable doubt that the victim was an elderly person.

COMMENT

A special finding for an elderly person applies only to violations of R.C. 2913.21(B)(1) or (B)(2).

(2) DISABLED ADULT. R.C. 2913.21(D)(4). You must determine whether the state has proven beyond a reasonable doubt that the victim was a disabled adult.

COMMENT

A special finding for a disabled adult applies only to violations of R.C. 2913.21(B)(1) or (B)(2).

(C) DEFINITIONS:

(1) ELDERLY PERSON. "Elderly person" means a person who was 65 years of age or older at the time of the offense.

COMMENT

Drawn from R.C. 2913.01.

(2) DISABLED ADULT. R.C. 2913.01.

16. CONCLUSION. OJI-CR 425.01.

17. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

18. GENERAL VERDICT FORM. OJI-CR 425.33.

19. ADDITIONAL FINDING VERDICT FORM.

COMMENT

The Committee believes that the following verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

A special finding for cumulative retail value applies only to violations of R.C. 2913.21(B)(2), (B)(3), or (B)(4).

We, the jury, having found the defendant guilty of misuse of credit card(s), further find beyond a reasonable doubt that the cumulative retail value was *_____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$500"

(or)

(2) "\$500 or more and less than \$5,000"

(or)

(3) "\$5,000 or more and less than \$100,000"

(or)

(4) "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

20. ELDERLY PERSON OR DISABLED ADULT VERDICT FORMS.

COMMENT

If the indictment alleges that the victim of the offense was either an elderly person or a disabled adult, the judge should submit the verdict forms listed below instead of the Additional Finding Verdict Form above.

The Committee believes that the following verdict forms satisfy *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

We, the jury, having found the defendant guilty of misuse of credit card(s), further find that the state of Ohio * _____ prove beyond a reasonable doubt that (*insert name of victim*) was a/an (elderly person) (disabled adult).

*Insert in ink: "did" or "did not"

If you found that (*insert name of victim*) was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that (*insert name of victim*) was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of misuse of credit card(s) and that (*insert name of victim*) was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the cumulative retail value was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$500"

(or)

(2) "\$500 or more and less than \$5,000"

(or)

(3) "\$5,000 or more and less than \$100,000"

(or)

(4) "\$100,000 or more"

(B) We, the jury, having found the defendant guilty of misuse of credit card(s) and that (*insert name of victim*) was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the (debt for which the card was held as security) (cumulative retail value of the [property] [services] involved) was * _____.

* Insert in ink:

(1) "less than \$500"

(or)

(2) "\$500 or more and less than \$5,000"

(or)

(3) "\$5,000 or more and less than \$25,000"

(or)

(4) "\$25,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 9/30/11 but before 11/2/18) [Rev. 12/8/18]

1. The defendant is charged with misuse of (a) credit card(s). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A)(1) practiced deception for the purpose of procuring the issuance of a credit card, when a credit card was issued in actual reliance upon the deception;

(or)

(A)(2) knowingly (bought) (sold) a credit card (from) (to) (describe person) who was not the issuer of the credit card;

(or)

(B)(1) with purpose to defraud, obtained control over a credit card as security for a debt;

(or)

(B)(2) with purpose to defraud, used the credit card in one or more transactions to obtain (property) (services), (knowing) (having reasonable cause to believe) that the card (had expired) (had been revoked) (was obtained, retained, or being used [describe applicable statutory violation of law]);

(or)

(B)(3) with purpose to defraud, furnished (property) (services) upon presentation of a credit card, knowing that the credit card was being used (describe applicable statutory violation);

(or)

(B)(4) with purpose to defraud, (represented) (caused to be represented) to the issuer of a credit card that (property) (services) had been furnished, knowing that the representation was false;

(or)

(C) with purpose to (*describe the violation of R.C. 2913.21*), (received) (possessed) (controlled) (disposed of) a credit card.

2. CREDIT CARD. R.C. 2913.01.

3. DECEPTION. R.C. 2913.01.

4. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

5. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

6. DEFRAUD. “Defraud” means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

7. PROPERTY. R.C. 2901.01.

8. SERVICES. “Services” include labor, personal services, professional services, public utility services, common carrier services, food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01.

9. ACTUAL RELIANCE. A person acts in reliance when the (statement[s]) (conduct) of another (induce[s]) (cause[s]) that person to act pursuant to such (statement[s]) (conduct).

10. ISSUE. “Issue” means to give out, to distribute.

11. ISSUER. “Issuer” means the (person who) (organization that) gives out or distributes credit cards.

12. SECURITY. “Security” means something given as a pledge or guaranty of payment for services or property.

13. VIOLATION OF LAW. Before you can find that the credit card was being (obtained) (retained) (used) in violation of law, you must find beyond a reasonable doubt that the defendant (*describe the elements of the applicable offense*).

COMMENT

The trial court should instruct the jury on the elements of the applicable statutory violation by which the defendant obtained, retained, or used the credit card, even if

that specific criminal offense is also being tried in a separate count. *State v. Riggs*, 5th Dist. Licking No. 2010 CA 20, 2010-Ohio-5697.

14. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.

15. ADDITIONAL FINDINGS:

(A) SPECIAL FINDING FOR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS. OJI-CR 425.25; R.C. 2913.21(D)(3), R.C. 2913.61.

In determining the cumulative retail value of the (property) (services) (property and services) involved, you may (aggregate) (add together) all (transactions) (uses) of one or more credit (card[s]) (card account[s]) within a 90-consecutive-day period beginning from the first use of the credit (card[s]) (card account[s]).

COMMENT

A special finding for cumulative retail value within 90 days applies only to violations of R.C. 2913.21(B)(2), (B)(3), or (B)(4).

(B) SPECIAL FINDING FOR DEBT FOR WHICH THE CARD IS HELD AS SECURITY OR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS.

OJI-CR 425.25; R.C. 2913.21(D)(4), R.C. 2913.61.

In determining the (debt for which the card is held as security) (cumulative retail value of the [property] [services] [property and services] involved) when the victim was a/an (elderly person) (disabled adult), you may (aggregate) (add together) all (transactions) (uses) of one or more credit (card[s]) (card account[s]) within a 90-consecutive-day period beginning from the first use of the credit (card[s]) (card account[s]).

COMMENT

A special finding for the debt for which the card is held as security or the cumulative retail value within 90 days applies only to violations of R.C. 2913.21(B)(1) or (B)(2) and when the victim is an elderly person or disabled adult. *See* R.C. 2913.21(D)(4).

(1) ELDERLY PERSON. R.C. 2913.21(D)(4). You must determine whether the state has proven beyond a reasonable doubt that the victim was an elderly person.

COMMENT

A special finding for an elderly person applies only to violations of R.C.

2913.21(B)(1) or (B)(2).

(2) **DISABLED ADULT.** R.C. 2913.21(D)(4). You must determine whether the state has proven beyond a reasonable doubt that the victim was a disabled adult.

COMMENT

A special finding for a disabled adult applies only to violations of R.C. 2913.21(B)(1) or (B)(2).

(C) DEFINITIONS:

(1) **ELDERLY PERSON.** “Elderly person” means a person who was 65 years of age or older at the time of the offense.

COMMENT

Drawn from R.C. 2913.01.

(2) **DISABLED ADULT.** R.C. 2913.01.

16. **CONCLUSION.** OJI-CR 425.01.

17. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

18. **GENERAL VERDICT FORM.** OJI-CR 425.33.

19. **ADDITIONAL FINDING VERDICT FORM.**

COMMENT

The Committee believes that the following verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

A special finding for cumulative retail value applies only to violations of R.C. 2913.21(B)(2), (B)(3), or (B)(4).

We, the jury, having found the defendant guilty of misuse of credit card(s), further find beyond a reasonable doubt that the cumulative retail value was *_____.

* Insert in ink:

(Use appropriate alternative[s])

(1) “less than \$1,000”

(or)

(2) “\$1,000 or more and less than \$7,500”

(or)

(3) "\$7,500 or more and less than \$150,000"

(or)

(4) "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

20. ELDERLY PERSON OR DISABLED ADULT VERDICT FORMS.**COMMENT**

If the indictment alleges that the victim of the offense was either an elderly person or a disabled adult, the judge should submit the verdict forms listed below instead of the Additional Finding Verdict Form above.

The Committee believes that the following verdict forms satisfy *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

We, the jury, having found the defendant guilty of misuse of credit card(s), further find that the state of Ohio * _____ prove beyond a reasonable doubt that (*insert name of victim*) was a/an (elderly person) (disabled adult).

*Insert in ink: "did" or "did not"

If you found that (*insert name of victim*) was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that (*insert name of victim*) was a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of misuse of credit card(s) and that (*insert name of victim*) was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the cumulative retail value was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more and less than \$7,500"

(or)

(3) "\$7,500 or more and less than \$37,500"

(or)

(4) "\$37,500 or more"

(B) We, the jury, having found the defendant guilty of misuse of credit card(s) and that (*insert name of victim*) was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the (debt for which the card was held as security) (cumulative retail value of the [property] [services] involved) was * _____.

* Insert in ink:

(1) "less than \$1,000"

(or)

(2) "\$1,000 or more and less than \$7,500"

(or)

(3) "\$7,500 or more and less than \$150,000"

(or)

(4) "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.21 Misuse of credit cards R.C. 2913.21 (offenses committed on and after 11/2/18) [Rev. 5/22/2021]

1. The defendant is charged with misuse of (a) credit card(s). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant

(Use appropriate alternative)

(A)(1) practiced deception for the purpose of procuring the issuance of a credit card, when a credit card was issued in actual reliance on the deception.

(or)

(A)(2) knowingly (bought) (sold) a credit card (from) (to) (*describe person*), who was not the issuer of the credit card.

(or)

(A)(3) knowingly misused a credit card account held by a political subdivision while the defendant was a/an ([officer] [employee] [appointee] of a political subdivision) (public servant).

COMMENT

Drawn from R.C. 2913.21(A).

(or)

(B)(1) with purpose to defraud, obtained control over a credit card as security for a debt.

(or)

(B)(2) with purpose to defraud, used the credit card in one or more transactions to obtain (property) (services), (knowing) (having reasonable cause to believe) that the card (had expired) (had been revoked) (was [obtained] [retained] [being used] in violation of law).

(or)

(B)(3) with purpose to defraud, furnished (property) (services) upon presentation of a credit card, knowing that the card was being used in violation of law.

(or)

(B)(4) with purpose to defraud, (represented) (caused to be represented) to the issuer of a credit card that (property) (services) had been furnished, knowing that the representation was false.

(or)

(C) (received) (possessed) (controlled) (disposed of) a credit card with purpose to *(describe the conduct that would be a violation of R.C. 2913.21)*.

(or)

(D) used a county-issued credit card to pay for expenses not authorized by law.

COMMENT

Drawn from R.C. 301.27.

(E) knowingly misused a credit card account held by the board of township trustees while the defendant was a (township [officer] [employee] [appointee]) (public servant).

COMMENT

Drawn from R.C. 505.64(F).

(F) knowingly misused a credit card account held by a township park district while the defendant was a (township park district [officer] [employee] [appointee]) (public servant).

COMMENT

Drawn from R.C. 511.234(F).

(G) knowingly misused a credit card account held by a municipal corporation while the defendant was a (municipal corporation [officer] [employee]) (public servant).

COMMENT

Drawn from R.C. 717.31(F).

(H) knowingly misused a credit card account held by a board of supervisors of a soil and water conservation district while the defendant was a (board [member] [employee]) (public servant).

COMMENT

Drawn from R.C. 940.11(F). Effective 3/24/2021, the statute was amended to refer to a board of supervisors instead of supervisors. H.B. 340. The amendment does not materially affect the criminal offense in this section.

(I) knowingly misused a credit card account held by a board of park commissioners of a park district while the defendant was a (board [officer] [employee] [appointee]) (public servant).

COMMENT

Drawn from R.C. 1545.072(F).

(J) knowingly misused a credit card account held by a board of directors of a/an (county) (independent) agricultural society while the defendant was a/an ([officer] [employee] of that society) (public servant).

COMMENT

Drawn from R.C. 1711.131(F).

(K) knowingly misused a credit card account held by a (school district board of education) (governing board of an educational service center) (governing authority of an information technology center) while the defendant was a/an ([officer] [employee] of that [school district] [educational service center] [information technology service center]) (public servant).

COMMENT

Drawn from R.C. 3313.311(F).

(L) knowingly misused a credit card account held by a governing authority of a community school while the defendant was a (community school [officer] [employee]) (public servant).

COMMENT

Drawn from R.C. 3314.52(F).

(M) knowingly misused a credit card account held by a governing body of a STEM school while the defendant was a (STEM school [officer] [employee]) (public servant).

COMMENT

Drawn from R.C. 3326.52(F).

(N) knowingly misused a credit card account held by a board of trustees of a college-preparatory boarding school while the defendant was a/an ([officer] [employee] of that school) (public servant).

COMMENT

Drawn from R.C. 3328.52(F).

(O) knowingly misused a credit card account held by a library (board of trustees) (district) while the defendant was a/an ([officer] [employee] of that library [board of trustees] [district]) (public servant).

COMMENT

Drawn from R.C. 3375.392(F).

(P) knowingly misused a credit card account held by a board of trustees of a regional water and sewer district while the defendant was a (district [officer] [employee]) (public servant).

COMMENT

Drawn from R.C. 6119.60(F).

2. CREDIT CARD. R.C. 2913.01.**COMMENT**

For the purposes of misuse of a county credit card, a procurement card authorized under R.C. 301.29 is not included as a credit card when the defendant is an officer or employee of the county. R.C. 301.27(A)(1).

3. PROCUREMENT CARD. R.C. 301.29(A)(2).**4. DECEPTION. R.C. 2913.01.****5. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).****6. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).****7. POLITICAL SUBDIVISION. “Political subdivision” means any corporate or political body that is responsible for government activities in a geographic area smaller than that of the state. “Political subdivision” does not include a county.****COMMENT**

Drawn from R.C. 9.21(H), which provides that a “political subdivision” for purposes of policies regarding “political subdivisions” that hold credit card accounts does not include a county. *But see* R.C. 9.22 (includes a county in the definition of “political subdivision” regarding debit card accounts). R.C. 301.27 sets out a separate offense for misuse of a county credit card.

8. DEFRAUD. “Defraud” means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.**COMMENT**

R.C. 2913.01.

9. PROPERTY. R.C. 2901.01.**10. SERVICES. “Services” include labor, personal services, professional services, public utility services, common carrier services, food, drink, transportation, entertainment, and cable television services.**

COMMENT

R.C. 2913.01.

11. **ACTUAL RELIANCE.** A person acts in reliance when the (statement[s]) (conduct) of another (induce[s]) (cause[s]) that person to act pursuant to such (statement[s]) (conduct).

12. **ISSUE.** “Issue” means to give out, to distribute.

13. **ISSUER.** “Issuer” means the (person who) (organization that) gives out or distributes credit cards.

14. **SECURITY.** “Security” means something given as a pledge or guaranty of payment for services or property.

15. **VIOLATION OF LAW.** Before you can find that the credit card was being (obtained) (retained) (used) in violation of law, you must find beyond a reasonable doubt that the defendant (*describe the elements of the applicable offense*).

COMMENT

The trial court should instruct the jury on the elements of the applicable statutory violation by which the defendant obtained, retained, or used the credit card, even if that specific criminal offense is also being tried in a separate count. *State v. Riggs*, 5th Dist. Licking No. 2010 CA 20, 2010-Ohio-5697.

16. **REASONABLE CAUSE TO BELIEVE.** OJI-CR 417.37.

17. **CREDIT CARD ACCOUNT.** R.C. 9.21(H).

18. **EXPENSES AUTHORIZED BY LAW.** “Expenses authorized by law” are limited to the following work-related expenses: food, transportation, gasoline and oil owned or leased by the county, motor vehicle repair and maintenance for motor vehicles owned or leased by the county, telephone, lodging, internet service provider, purchases for children when the agency is providing temporary emergency care or the children are in (the temporary or permanent care) (planned permanent living arrangement) of a public children services agency, a webinar, or purchases of automatic or electronic data processing or record-keeping equipment, software, or services except as authorized by (*insert specific use under R.C. 307.84 through R.C. 307.847*).

COMMENT

Drawn from R.C. 301.27(A) and (B).

This instruction should be given only for a violation of R.C. 2913.21 based on the

prohibition contained in R.C. 301.27(G).

19. SCHOOL DISTRICT. R.C. 3311.02, R.C. 3311.03.

20. EDUCATIONAL SERVICE CENTER. R.C. 3311.05.

21. COMMUNITY SCHOOL. "Community school" means a public school independent of any school district and part of the state's program of education.

COMMENT

Drawn from R.C. 3314.01.

22. LIBRARY BOARD OF TRUSTEES. "Library board of trustees" includes a board of a (library district) (free public library).

COMMENT

Drawn from R.C. 3375.392(A).

23. REGIONAL WATER AND SEWER DISTRICT. "Regional water and sewer district" means an unincorporated part of one or more contiguous counties or in one or more municipal corporations, or both, organized to supply water to users inside and outside the district and provide for the collection, treatment, and disposal of waste water inside and outside the district.

COMMENT

Drawn from R.C. 6119.01.

24. MISUSE OF CREDIT CARD ACCOUNT. "Misuse of credit card account" includes the use of the credit card account for any expenses beyond those authorized by written policy of the (board) (authority) (*describe other governing body*).

COMMENT

Drawn from R.C. 505.64(F), R.C. 511.234(F), R.C. 717.31(F), R.C. 940.11(F), R.C. 1545.072(F), R.C. 1711.131(F), R.C. 3313.311(F), R.C. 3314.52(F), R.C. 3326.52(F), R.C. 3328.52(F), R.C. 3375.392(F), R.C. 6119.60(F).

25. PUBLIC SERVANT. R.C. 2921.01.

26. ADDITIONAL FINDINGS:

(A) SPECIAL FINDING FOR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS. OJI-CR 425.25; R.C. 2913.21(D)(3), R.C. 2913.61.

In determining the cumulative retail value of the (property) (services) (property and services) involved, you may (aggregate) (add together) all (transactions) (uses) of one or more credit (cards) (card accounts) within a 90-consecutive-day period beginning from the first use of the credit (cards) (card accounts).

COMMENT

A special finding for cumulative retail value within 90 days applies only to violations of R.C. 2913.21(B)(2), (B)(3), or (B)(4).

(B) SPECIAL FINDING FOR DEBT FOR WHICH THE CARD IS HELD AS SECURITY OR CUMULATIVE RETAIL VALUE WITHIN 90 CONSECUTIVE DAYS. OJI-CR 425.25; R.C. 2913.21(D)(4), R.C. 2913.61.

In determining the (debt for which the card is held as security) (cumulative retail value of the [property] [services] [property and services] involved) when the victim was a/an (elderly person) (disabled adult), you may (aggregate) (add together) all (transactions) (uses) of one or more credit (cards) (card accounts) within a 90-consecutive-day period beginning from the first use of the credit (cards) (card accounts).

COMMENT

A special finding for the debt for which the card was held as security or the cumulative retail value within 90 days applies only to violations of R.C. 2913.21(B)(1) or (B)(2) and when the victim was an elderly person or disabled adult. *See* R.C. 2913.21(D)(4).

(1) ELDERLY PERSON. R.C. 2913.21(D)(4). You must determine whether the state has proven beyond a reasonable doubt that the victim was an elderly person.

COMMENT

A special finding for an elderly person applies only to violations of R.C. 2913.21(B)(1) or (B)(2).

(2) DISABLED ADULT. R.C. 2913.21(D)(4). You must determine whether the state has proven beyond a reasonable doubt that the victim was a disabled adult.

COMMENT

A special finding for a disabled adult applies only to violations of R.C.

2913.21(B)(1) or (B)(2).

(C) DEFINITIONS:

(1) ELDERLY PERSON. "Elderly person" means a person who was 65 years of age or older at the time of the offense.

COMMENT

Drawn from R.C. 2913.01.

(2) DISABLED ADULT. R.C. 2913.01.

27. CONCLUSION. OJI-CR 425.01.

28. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

29. GENERAL VERDICT FORM. OJI-CR 425.33.

30. ADDITIONAL FINDING VERDICT FORM.

COMMENT

The Committee believes that the following verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

A special finding for cumulative retail value applies only to violations of R.C. 2913.21(B)(2), (B)(3), or (B)(4).

We, the jury, having found the defendant guilty of misuse of credit card(s), further find beyond a reasonable doubt that the cumulative retail value was * _____.

* Insert in ink:

(Use appropriate alternative)

(1) "\$1,000 or more and less than \$7,500"

(or)

(2) "\$7,500 or more and less than \$150,000"

(or)

(3) "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of

offense. R.C. 2913.61.

31. ELDERLY PERSON OR DISABLED ADULT VERDICT FORMS.

COMMENT

If the indictment alleges that the victim of the offense was either an elderly person or a disabled adult, the judge should submit the verdict forms listed below instead of the Additional Finding Verdict Form above.

The Committee believes that the following verdict forms satisfy *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

We, the jury, having found the defendant guilty of misuse of credit card(s), further find that the state of Ohio * _____ prove beyond a reasonable doubt that (*insert name of victim*) was a/an (elderly person) (disabled adult).

*Insert in ink: "did" or "did not"

If you found that (*insert name of victim*) was a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that (*insert name of victim*) was not a/an (elderly person) (disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of misuse of credit card(s) and that (*insert name of victim*) was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the cumulative retail value was * _____.

* Insert in ink:

(Use appropriate alternative)

(1) "\$1,000 or more and less than \$7,500"

(or)

(2) "\$7,500 or more and less than \$37,500"

(or)

(3) "\$37,500 or more"

(B) We, the jury, having found the defendant guilty of misuse of credit card(s) and that (*insert name of victim*) was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the (debt for which the card was held as security) (cumulative retail value of the [property] [services] involved) was * _____.

* Insert in ink:

(Use appropriate alternative)

(1) "\$1,000 or more and less than \$7,500"

(or)

(2) "\$7,500 or more and less than \$150,000"

(or)

(3) "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.30 Counterfeiting R.C. 2913.30 (offenses committed on and after 1/22/19) [Rev. 2/26/22]

1. The defendant is charged with counterfeiting. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (with purpose to defraud) (knew that [*insert name of person*] was facilitating a fraud and had)

(Use appropriate alternative[s])

(A) (falsely made) (forged) (counterfeited) (altered) a/an (*identify obligation or other security*) of the United States;

(or)

(B) (passed) (uttered) (sold) (purchased) (concealed) (transferred) a counterfeit (*identify obligation or other security*) of the United States;

(or)

(C) possessed with the purpose to utter a/an (*identify obligation or other security*) of the United States and knew that the (*identify obligation or other security*) was counterfeited;

(or)

(D) (falsely made) (forged) (counterfeited) (altered) (knowingly possessed) any access device without the issuer's authorization.

COMMENT

Drawn from R.C. 2913.30(B).

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01.

4. **KNOWINGLY.** OJI-CR 417.11; R.C. 2901.22(B).
5. **OBLIGATIONS OR OTHER SECURITY.** “Obligations or other security” means an instrument recognized as currency or legal tender or that is issued by the United States treasury, including bills, coins, bonds, or checks.

COMMENT

R.C. 2913.30(A)(2).

The Committee believes that the definition of “obligation of other security” in R.C. 2913.30(A)(2) means only instruments recognized as currency or legal tender of the United States or issued by the United States treasury.

6. **FORGE.** “Forge” means to fabricate or create, in whole or in part and by any means, any spurious writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

COMMENT

R.C. 2913.01.

7. **COUNTERFEIT.** “Counterfeit” means something copied or imitated without authority, something not genuine.
8. **ALTER.** “Alter” means to make different, modify, or change.

COMMENT

Drawn from *Essman v. City of Portsmouth*, 4th Dist. Scioto No. 09CA3325, 2010-Ohio-4837.

9. **UTTER.** “Utter” means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

COMMENT

R.C. 2913.01.

10. **CONCEAL.** "Conceal" means to hide, keep secret, or keep from the discovery by or observation of others.

COMMENT

Drawn from *State v. Curlee-Jones*, 8th Dist. Cuyahoga No. 98233, 2013-Ohio-1175.

11. **POSSESS.** OJI-CR 417.21.

12. **ACCESS DEVICE.** "Access device" means any debit or credit card representing a monetary security or retail amount by any financial institution, including a bank, savings bank, savings and loan association, credit union, or business entity.

COMMENT

R.C. 2913.30(A)(1).

13. **ADDITIONAL FINDINGS.** OJI-CR 425.25; R.C. 2913.30(C).

14. **CONCLUSION.** OJI-CR 425.01.

14. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

15. **GENERAL VERDICT FORM.** OJI-CR 425.33.

16. **ADDITIONAL FINDING VERDICT FORMS**

COMMENT

The court should give one or both of the following verdict forms to the jury, depending on the facts in the case.

The Committee believes that the following verdict forms satisfy *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

The Committee believes that because the General Assembly used the plural terms "obligations," "other securities," and "access devices" in R.C. 2913.30(C)(1), (2), and (3), it is implied that the value is aggregated.

(A) MONETARY AMOUNT.

We, the jury, having found the defendant guilty of counterfeiting, further find beyond a reasonable doubt that the value of the (counterfeited obligations or other securities) (access device[s]) was *_____.

* Insert in ink:

Use appropriate alternative

(1) "less than \$5,000"

or

(2) "\$5,000 or more and less than \$100,000"

or

(3) "\$100,000 or more and less than \$1,000,000"

or

(4) "\$1,000,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

(B) NUMBER OF ACCESS DEVICES.

COMMENT

This verdict form is applicable only for violations of R.C. 2913.30(B)(4).

We, the jury, having found the defendant guilty of counterfeiting, further find that the state of Ohio * _____ prove beyond a reasonable doubt that the offense involved five or more access devices.

*Insert in ink: "did" or "did not".

CR 513.31(A) Forgery R.C. 2913.31(A) (offenses committed on and after 7/1/96)

1. The defendant is charged with forgery. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant (with purpose to defraud) (knowing that he/she was facilitating a fraud)

(Use appropriate alternative[s])

(A)(1) forged the (*describe writing*) of (*insert name of other person*) without his/her authority.

(or)

(A)(2) forged the (*describe writing*) so that it purported or appeared (to be genuine when it was actually [spurious] [false]) (to be the act of [*insert name of person*]) who

did not authorize that act) (to have been executed at [a time] [a place] [with terms] different from what was in fact the case) (to be a copy of an original when no such original existed).

(or)

(A)(3) (uttered) (possessed with the purpose to utter) a (*describe writing*) which he/she knew was forged.

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. DEFRAUD; FRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical to that of the verb "defraud."

4. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

5. DECEPTION. R.C. 2913.01(A).

6. FACILITATING. "Facilitating" means helping, promoting, assisting or aiding.

7. FORGED. "Forge" means to fabricate or create, in whole or in part and by any means, any (spurious) (false) writing, or to make, execute, alter, complete, reproduce, or otherwise (purport) (claim) to authenticate any writing, when the writing in fact is not authenticated by that conduct.

COMMENT

Drawn from R.C. 2913.01(G).

8. WRITING. R.C. 2913.01(F).

9. EXECUTE. "Execute" means to sign a document.

10. UTTER. "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

COMMENT

R.C. 2913.01(H).

11. ADDITIONAL FINDING:

VALUE. OJI-CR 425.23; R.C. 2913.31(C)(1), 2913.61.

12. CONCLUSION. OJI-CR 425.01.

13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.31(B) Forging identification cards or selling or distributing forged identification cards R.C. 2913.31(B)

1. The defendant is charged with (forging identification cards) (selling or distributing forged identification cards). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly

(Use appropriate alternative[s])

(B)(1) forged an identification card.

(or)

(B)(2) sold or otherwise distributed a card that (purported) (appeared) to be an identification card, knowing it to have been forged.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. FORGED. "Forged" means to fabricate or create, in whole or in part and by any means, any (spurious) (false) writing or to make, execute, alter, complete, reproduce, or otherwise (purport) (claim) to authenticate any writing, when the writing in fact is not authenticated by that conduct.

COMMENT

Drawn from R.C. 2913.01(G).

4. IDENTIFICATION CARD. R.C. 2913.31(B)(2)

5. ADDITIONAL FINDING:

PRIOR CONVICTION. OJI-CR 425.15; R.C. 2913.31(C)(2).

6. CONCLUSION. OJI-CR 425.01.

7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.32 Criminal simulation R.C. 2913.32 (offenses committed on and after 7/1/96)

1. The defendant is charged with criminal simulation. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (with purpose to defraud) (knowing that he/she was facilitating a fraud)

(Use appropriate alternative[s])

(A)(1) (made) (altered) (*describe object*) so that it appeared to have some value because of (antiquity) (rarity) (curiosity) (source) (authorship) which it did not in fact possess.

(or)

(A)(2) (practiced) (engaged in) deception in (making) (retouching) (editing) (reproducing) any (photograph) (movie film) (video tape) (phonograph record) (recording tape).

(or)

(A)(3) falsely or fraudulently ([made] [caused to be made][simulated] [caused to be simulated] [forged] [caused to be forged][altered] [caused to be altered] [counterfeited] [caused to be counterfeited]) (used more than once) a (wrapper) (label) (stamp) (cork) (cap) prescribed by the Ohio Liquor Control Commission.

(or)

(A)(4) (uttered) (possessed with purpose to utter) (*describe object*) which he/she knew to have been (*describe simulation at issue*).

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. FACILITATING. "Facilitating" means helping, promoting, assisting or aiding.

4. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B)

5. DEFRAUD; FRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical to that of the verb "defraud."

6. DECEPTION. R.C. 2913.01(A).

7. SIMULATE. "Simulate" means to create an effect or appearance.

8. COUNTERFEIT. "Counterfeit" means something copied or imitated without authority, something not genuine.

9. UTTER. "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.

COMMENT

R.C. 2913.01(H).

10. ADDITIONAL FINDING:

VALUE. OJI-CR 425.23; R.C. 2913.32(B), 2913.61.

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.33 Making or using slugs R.C. 2913.33

1. The defendant is charged with making or using slugs. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A)(1) (inserted) (deposited) a slug in a coin machine with purpose to defraud.

(or)

(A)(2) (made) (possessed) (disposed of) a slug with purpose of enabling another to defraud by (inserting) (depositing) it in a coin machine.

2. SLUG. "Slug" means an object which, by virtue of its size, shape, composition, or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill, or token made for that purpose.

COMMENT

R.C. 2913.01(J).

3. COIN MACHINE. R.C. 2913.01(I).

4. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

5. DEFRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B).

6. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

7. DECEPTION. R.C. 2913.01(A).

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.34 Trademark counterfeiting R.C. 2913.34 (offenses committed on and after 3/31/97)

1. The defendant is charged with trademark counterfeiting. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative[s])

(A)(1) (attached) (affixed) (used) a counterfeit mark in connection with the manufacture of (goods) (services) whether or not the goods were intended for sale or resale.

(or)

(A)(2) (possessed) (sold) (offered for sale) any (tools) (machines) (instruments) (materials) (articles) (*describe items of personal property*) with knowledge that they were designed for the production or reproduction of counterfeit marks.

(or)

(A)(3) (purchased) (acquired) goods and (kept) (had) the goods in his/her possession with the knowledge that a counterfeit mark was (attached to) (affixed to) (used in connection with) the goods and with the intent to sell or otherwise dispose of the goods.

(or)

(A)(4) (sold) (offered for sale) (disposed of) goods with knowledge that a counterfeit mark was (attached to) (affixed to) (used in connection with) the goods.

(or)

(A)(5) (sold) (offered for sale) (provided) services with the knowledge that a counterfeit mark was used in connection with that (sale) (offer for sale) (provision) of services.

2. COUNTERFEIT MARK. R.C. 2913.34 (F)(1).

3. SPURIOUS TRADEMARK OR SPURIOUS SERVICE MARK. R.C. 2913.34 (F)(1).

4. KNOWLEDGE. OJI-CR 417.11; R.C. 2901.22(B).

5. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27

(B) DEFENSES, AFFIRMATIVE DEFENSES, AND LIMITATIONS.

COMMENT

R.C. 2913.34(C) provides that all defenses, affirmative defenses, and limitations

on remedies available to a defendant under the “Lanham Act,” 60 Stat. 427–443 (1946), 15 U.S.C. 1051–1127, as amended, “The Trademark Counterfeiting Act of 1984,” 98 Stat. 2178, 18 U.S.C. 2320, as amended, and R.C. Chapter 1329 or any other section of the Revised Code or at common law may be asserted in a prosecution under this section. If raised, the trial judge must give instructions tailored to these specific offenses.

6. **ADDITIONAL FINDINGS:**

SPECIAL FINDING OF CUMULATIVE SALES PRICE. OJI-CR 425.25; R.C. 2913.34(B)(2), and (4), 2913.34(F)(2).

SPECIAL FINDING OF INTENT TO USE IN COMMISSION OF FELONY. OJI-CR 425.25; R.C. 2913.34(B)(3).

7. **CONCLUSION.** OJI-CR 425.01.

8. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

9. **CONCLUSION WITH AFFIRMATIVE DEFENSE.** OJI-CR 425.03.

CR 513.40 Medicaid fraud R.C. 2913.40 [Rev. 8-22-07]

COMMENT

In addition to a provider or a recipient, a corporation may be held criminally liable, but only if its corporate officers approve, recommend, or implement the actions constituting the criminal offense. For example, if a jury finds a corporation’s president and treasurer not guilty of medicaid fraud, the corporation cannot be found guilty of medicaid fraud. *State v. Wintersong* (1990), 69 Ohio App.3d 552.

Although federal courts have recognized an affirmative defense of entrapment by estoppel, no Ohio court has adopted this defense. See *State v. Howell*, (Nov. 17, 1998), 4th Dist. No. 97CA824.

1. The defendant is charged with medicaid fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant

(*Use appropriate alternative[s]*)

(A) knowingly (made) (caused to be made) a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(*or*)

COMMENT

Section (B) applies only to offenses committed before 9/29/07.

(B) (with purpose to commit fraud) (knowing he/she/it was facilitating a fraud),

(Use appropriate alternative[s])

(1) and contrary to the terms of his/her/its provider agreement, (charged) (solicited) (accepted) (received) for goods or services that he/she/it provided under the medical assistance program any (property) (money) *(describe other consideration)* in addition to the amount of reimbursement under the medical assistance program and his/her/its provider agreement for goods or services and any deductibles or co-payments authorized by law.

COMMENT

The Committee believes that the determination of whether deductibles or co-payments are "authorized by law" is to be made by the judge and the jury instructed accordingly.

(or)

(2) (solicited) (offered) (received) any (remuneration) (payment) other than any deductibles or co-payments authorized by law, in cash or in kind, including but not limited to a (kickback) (rebate) in connection with furnishing goods or services for which (whole) (partial) reimbursement (was) (may be) made under the medical assistance program.

COMMENT

The Committee believes that the determination of whether deductibles or co-payments are "authorized by law" is to be made by the judge and the jury instructed accordingly.

(or)

COMMENT

Section (C) applies only to offenses committed on and after 9/29/07. See Am. Sub. HB 119, effective 9/29/07.

(C) (with purpose to commit fraud) (knowing he/she/it was facilitating a fraud),

(Use appropriate alternative[s])

(1) and contrary to the terms of his/her/its provider agreement, (charged) (solicited) (accepted) (received) for goods or services that he/she/it provided under the medical assistance program any (property) (money) *(describe other consideration)* in addition to the amount of reimbursement under the medical assistance program and his/her/its provider agreement for goods or services and any cost-sharing expenses authorized by law.

COMMENT

The Committee believes that the determination of whether cost-sharing expenses are “authorized by law” is to be made by the judge and the jury instructed accordingly.

(or)

(2) (solicited) (offered) (received) any (remuneration) (payment) other than any cost-sharing expenses authorized by law, in cash or in kind, including but not limited to a (kickback) (rebate) in connection with furnishing goods or services for which (whole) (partial) reimbursement (was) (may be) made under the medical assistance program.

COMMENT

The Committee believes that the determination of whether cost-sharing expenses are “authorized by law” is to be made by the judge and the jury instructed accordingly.

(or)

(D) having (submitted a claim for) (provided) goods or services under the medical assistance program, knowingly (altered) (falsified) (destroyed) (concealed) (removed) any records that were necessary to disclose fully

(Use appropriate alternative[s])

(1) the nature of all goods or services for which (the claim was submitted) (reimbursement was received) by the defendant,

(or)

(2) all income and expenditures upon which rates of reimbursements were based for the defendant, during a period of six years after a reimbursement for (that claim) (those goods) (those services) was received under the medical assistance program.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. STATEMENT OR REPRESENTATION. R.C. 2913.40.
4. MEDICAL ASSISTANCE PROGRAM.

(Use appropriate alternative)

(A) MEDICAL ASSISTANCE PROGRAM (offenses committed before 7/1/00).
“Medical assistance program” means the program established by the Department of Human Services to provide medical assistance.

COMMENT

Drawn from R.C. 2913.40 before 7/1/00.

(B) MEDICAL ASSISTANCE PROGRAM (offenses committed on and after 7/1/00). “Medical assistance program” means the program established by the Department of Job and Family Services to provide medical assistance.

COMMENT

Drawn from R.C. 2913.40 as amended effective 7/1/00.

5. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

6. TO COMMIT/FACILITATE FRAUD. “To (commit) (facilitate) fraud” means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

Drawn from R.C. 2913.01. The definition of the noun “fraud” is identical with that of the verb “defraud.”

7. DECEPTION. R.C. 2913.01.
8. FACILITATING. “Facilitating” means helping, promoting, assisting, or aiding.
9. PROVIDER AGREEMENT.

(Use appropriate alternative)

(A) PROVIDER AGREEMENT (offenses committed before 7/1/00).

“Provider agreement” means an oral or written agreement between the Department of Human Services and a person, in which the person agrees to provide goods or services under the medical assistance program.

COMMENT

Drawn from R.C. 2913.40 before 7/1/00.

(B) PROVIDER AGREEMENT (offenses committed on and after 7/1/00).

“Provider agreement” means an oral or written agreement between the Department of Job and Family Services and a person, in which the person agrees to provide goods or services under the medical assistance program.

COMMENT

Drawn from R.C. 2913.40 as amended effective 7/1/00.

10. PROVIDER.

(Use appropriate alternative)

(A) PROVIDER (offenses committed before 7/1/00).

“Provider” means any person who has signed a provider agreement with the Department of Human Services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program.

COMMENT

Drawn from R.C. 2913.40 before 7/1/00.

(B) PROVIDER (offenses committed on and after 7/1/00).

“Provider” means any person who has signed a provider agreement with the Department of Job and Family Services to provide goods or services pursuant to the medical assistance program or any person who has signed an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medical assistance program.

COMMENT

Drawn from R.C. 2913.40 as amended effective 7/1/00.

11. DEDUCTIBLES AND CO-PAYMENTS/COST-SHARING EXPENSES.**COMMENT**

R.C. 2913.40(C). The Court will need to define these terms only if there is a factual issue about the existence of or the provisions for deductibles or co-payments (applicable before 9/29/07) or cost-sharing expenses (applicable on and after 9/29/07).

12. RECORDS.

(Use appropriate alternative)

(A) RECORDS (offenses committed before 7/1/00).

“Records” means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the Department of Human Services to be kept for the medical assistance program.

COMMENT

Drawn from R.C. 2913.40 before 7/1/00.

(B) RECORDS (offenses committed on and after 7/1/00).

“Records” means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the Director of Job and Family Services to be kept for the medical assistance program.

COMMENT

Drawn from R.C. 2913.40 as amended effective 7/1/00.

13. RECIPIENT. “Recipient” means any individual who receives goods or services from a provider under the medical assistance program.

COMMENT

Drawn from R.C. 2913.40.

14. ADDITIONAL FINDING: VALUE. OJI-CR 425.23; R.C. 2913.40(E).

15. CONCLUSION. OJI-CR 425.01.

16. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.401 Medicaid eligibility fraud R.C. 2913.401 [Rev. 8-22-07]

1. The defendant is charged with medicaid eligibility fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant knowingly, in (an application for) (a document that requires a disclosure of assets for the purpose of determining eligibility to receive) medicaid benefits,

(Use appropriate alternative[s])

(A) (made) (caused to be made) a false or misleading statement.

(or)

(B) concealed an interest in property.

(or)

(C) failed to disclose a transfer of property that occurred during the period beginning

(Use appropriate alternative[s])

(1) thirty-six months before submission of the (application) (document) and ending on the date the (application) (document) was submitted.

(or)

(2) sixty months before submission of the (application) (document) and ending on the date the (application) (document) was submitted and that was made to (an irrevocable trust a portion of which is not distributable to the [applicant for medicaid benefits] [recipient of medicaid benefits]) (a revocable trust).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. MEDICAID BENEFITS. "Medicaid benefits" means benefits under the medicaid assistance program.

COMMENT

Drawn from R.C. 2913.401.

4. PROPERTY. "Property" means any real or personal property or other asset in which a person has any legal title or interest.

COMMENT

R.C. 2913.401.

5. ADDITIONAL FINDING: VALUE. OJI-CR 425.23; R.C. 2913.401(C)(1).
6. CONCLUSION. OJI-CR 425.01.
7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.41 Defrauding a livery or hostelry R.C. 2913.41 (offenses committed before 7/1/96)

1. The defendant is charged with defrauding a (livery) (hostelry). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (with purpose to defraud) (knowing that he/she was facilitating or aiding a fraud)

(Use appropriate alternative)

(A)(1) (hired) ([kept] [operated] after it had been hired) a/an (aircraft) (motor vehicle) (motorcycle) (motorboat) (sailboat) (camper) (trailer) (horse) (buggy).

(or)

(A)(2) engaged accommodations at a/an (hotel) (motel) (inn) (campground) (*describe other similar establishment*).

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. DEFRAUD; FRAUD. "Fraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical with that of the verb "defraud."

4. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
5. DECEPTION. R.C. 2913.01(A).
6. FACILITATING. "Facilitating" means helping, promoting, assisting or aiding.
7. PRESUMPTION OF PURPOSE TO DEFRAUD. OJI-CR 417.33.

COMMENT

When tailoring an instruction on a permissive presumption in accordance with OJI-CR 417.33(1) the trial judge must use the language from R.C. 2913.41(B)(1), (2), (3), (4) or (5).

8. ADDITIONAL FINDINGS:

PRIOR CONVICTION. OJI-CR 425.15; R.C. 2913.41(C).

PHYSICAL HARM OR THREAT. OJI-CR 425.21.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.42 Tampering with records R.C. 2913.42 (offenses committed on and after 7/1/96)

1. The defendant is charged with tampering with records. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, knowing that he/she had no privilege to do so

(Use appropriate alternative)

(A)(1) (with purpose to defraud) (knowing he/she was facilitating a fraud), (falsified) (destroyed) (removed) (concealed) (altered) (defaced) (mutilated) a (*describe the writing, data, or record*).

(or)

(A)(2) (with purpose to defraud) (knowing he/she was facilitating a fraud), uttered (*describe the writing or record*), knowing it to have been (falsified) (destroyed) (removed) (concealed) (altered) (defaced) or (mutilated).

(or)

(B) (falsified) (destroyed) (removed) (concealed) (altered) (defaced) (mutilated) any computer software or data.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. PRIVILEGE. "Privilege" means an immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

COMMENT

R.C. 2901.01(A)(12).

4. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

5. DEFRAUD; FRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun “fraud” is identical to that of the verb “defraud.”

6. **DECEPTION.** R.C. 2913.01(A).
7. **FACILITATING.** “Facilitating” means helping, promoting, assisting or aiding.
8. **WRITING.** OJI-CR 513.31(A) § 8; R.C. 2913.01(F).
9. **DATA.** R.C. 2913.01(R).
10. **UTTER.** “Utter” means to issue, publish, transfer, use, put or send into circulation, deliver or display.

COMMENT

R.C. 2913.01(H).

11. **COMPUTER SOFTWARE.** “Computer software” means computer programs, procedures, and other documentation associated with the operation of a computer system.

COMMENT

R.C. 2913.01(Q).

12. **COMPUTER.** R.C. 2913.01(M).
13. **COMPUTER SYSTEM.** R.C. 2913.01(N).
14. **COMPUTER NETWORK.** R.C. 2913.01(O).
15. **COMPUTER PROGRAM.** “Computer program” means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.

COMMENT

R.C. 2913.01(P).

16. **ADDITIONAL FINDINGS:**
SPECIAL FINDINGS. OJI-CR 425.25; R.C. 2913.42(B)(2).
VALUE. OJI-CR 425.23; R.C. 2913.42(B)(3), 2913.61.

17. CONCLUSION. OJI-CR 425.01.

18. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.421(B) Illegally transmitting multiple commercial electronic mail messages (spamming) R.C 2913.421(B) (offenses committed on and after 9/30/11) [Rev. 3/12/22]

1. The defendant is charged with illegally transmitting commercial electronic mail messages (spamming). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with regard to commercial electronic mail messages sent from or to a computer in Ohio, knowingly

(Use appropriate alternative)

(A) used a computer to (relay) (transmit) multiple commercial mail messages with the intent to ([deceive] [mislead]) ([recipients] [any electronic mail service provider]) of the origin of those messages;

COMMENT

Drawn from R.C. 2913.421(B)(1).

(or)

(B) and materially falsified header information in multiple commercial electronic mail messages and purposely initiated the transmission of those messages;

COMMENT

Drawn from R.C. 2913.421(B)(2).

(or)

(C) registered using information that materially falsified the identity of the actual registrant for (five or more [electronic mail] [online user] accounts) (two or more domain names) and purposely initiated the transmission of multiple commercial electronic mail messages from (one) (any combination) of those (accounts) (domain names);

COMMENT

Drawn from R.C. 2913.421(B)(3).

(or)

(D) falsely represented the right to use five or more Internet protocol addresses and purposely initiated the transmission of multiple commercial electronic messages from those addresses.

COMMENT

Drawn from R.C. 2913.421(B)(4).

2. COMMERCIAL ELECTRONIC MAIL MESSAGES.**COMMENT**

R.C. 2913.421(A)(2).

3. **ELECTRONIC MAIL MESSAGE.** "Electronic mail message" means each electronic mail addressed to a discrete addressee.

COMMENT

R.C. 2913.421(A)(5).

4. **ELECTRONIC MAIL.** R.C. 2913.421(A)(4).

5. **TRANSACTIONAL OR RELATIONSHIP MESSAGE.** R.C. 2913.421(A)(15).

6. **COMPUTER.** R.C. 2913.01, R.C. 2913.421(A)(1).

7. **KNOWINGLY.** R.C. 2901.22(B); OJI-CR 417.11.

8. **DECEIVE.** "Deceive" means to cause to accept as true or valid what is false or invalid.

COMMENT

State v. Horne, 9th Dist. Summit No. 25238, 2011-Ohio-1901, relying on Merriam-Webster's Collegiate Dictionary (11th Ed. 2004).

9. **RECIPIENT.** R.C. 2912.421(A)(13).

10. **RECEIVING ADDRESS.** "Receiving address" means the string of characters used to specify a recipient with each receiving address creating a unique and separate recipient.

COMMENT

R.C. 2307.64(A)(9), R.C. 2913.421(A)(13).

11. ELECTRONIC MAIL SERVICE PROVIDER. R.C. 2913.421(A)(6).
12. MATERIALLY FALSE. R.C. 2913.421(A)(11).
13. HEADER INFORMATION. R.C. 2913.421(A)(7).
14. ORIGINATING ADDRESS. "Originating address" means the string of characters used to specify the source of any electronic mail message.

COMMENT

R.C. 2307.64(A)(6), R.C. 2913.421(A)(4).

15. MULTIPLE. R.C. 2913.421(A)(12).
16. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
17. INITIATE THE TRANSMISSION OR INITIATE. R.C. 2913.421(A)(8).
18. ROUTINE CONVEYANCE. R.C. 2913.421(A)(14).
19. DOMAIN NAME. R.C. 2913.421(A)(3).
20. INTERNET. R.C. 341.42, R.C. 2913.421(A)(9).
21. INTERNET PROTOCOL ADDRESS. "Internet protocol address" means the string of numbers by which locations on the internet are identified by routers or other computers connected to the internet.

COMMENT

R.C. 2913.421(A)(10).

22. ADDITIONAL FINDINGS:

- (A) CONSPIRE.

COMMENT

The court must instruct on the elements of conspiracy including the appropriate culpable mental state as indicated by the facts of the case. *See* OJI-CR 523.01.

- (B) VALUE. OJI-CR 425.23; R.C. 2913.02(B), R.C. 2913.61.

COMMENT

The Committee believes that the appropriate additional finding verdict form

below should be used to determine value.

(C) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61(B).

(D) PROPERTY. R.C. 2901.01.

(E) SERVICES. "Services" include labor, personal services, professional services, rental services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

Drawn from R.C. 2913.01.

23. CONCLUSION. OJI-CR 425.01, OJI-CR 425.33.

24. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

25. VERDICT FORM.

We, the jury, having found the defendant guilty of illegally transmitting multiple commercial electronic mail messages, further find that the state

COMMENT

The Committee believes that the following verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

(Use appropriate alternative[s])

(A) _____ (insert in ink: "did" or "did not") prove beyond a reasonable doubt that the defendant used information that materially falsified the identity of the actual registrant, knowingly registered for twenty or more electronic mail accounts or online user accounts or ten or more domain names, and purposely initiated, or conspired to initiate, the transmission of multiple commercial electronic mail messages from the accounts or domain names;

COMMENT

Drawn from R.C. 2913.421(C)(2)(a).

(or)

(B) _____ (insert in ink: "did" or "did not") prove beyond a reasonable doubt that the volume of commercial electronic mail messages that the defendant transmitted in committing the offense exceeded 250 during any 24-hour period,

2,500 during any 30-day period, or 25,000 during any one-year period;

COMMENT

Drawn from R.C. 2913.421(C)(2)(b).

(or)

(C)(1) _____ (insert in ink: “did” or “did not”) prove beyond a reasonable doubt that during any one-year period, the aggregate loss to the victim or victims of the offense was \$1,000 or more.

(or)

(C)(2) _____ (insert in ink: “did” or “did not”) prove beyond a reasonable doubt that during any one-year period, the aggregate value of the property or services obtained by the defendant or *(insert name of other person)* as a result of the offense was \$1,000 or more.

COMMENT

Drawn from R.C. 2913.421(C)(2)(c).

(or)

(D) _____ (insert in ink: “did” or “did not”) prove beyond a reasonable doubt that the defendant committed the offense with three or more other persons with respect to whom the defendant was the organizer or leader of the activity that resulted in the offense.

COMMENT

Drawn from R.C. 2913.421(C)(2)(d).

(or)

(E) _____ (insert in ink: “did” or “did not”) prove beyond a reasonable doubt that the defendant knowingly assisted in the offense through the provision or selection of electronic mail addresses to which the commercial electronic mail message was transmitted, and

(1) the defendant knew that the electronic mail addresses of the recipients were obtained using an automated means from an internet web site or proprietary online service operated by another person, and

(2) the web site or online service included, at the time the electronic mail addresses were obtained, a notice stating that the operator of that web site or

online service would not transfer addresses maintained by that web site or online service to any other party for the purposes of initiating the transmission of, or enabling others to initiate the transmission of, electronic mail messages.

COMMENT

Drawn from R.C. 2913.421(C)(2)(e).

(or)

(F) _____ (insert in ink: "did" or "did not") prove beyond a reasonable doubt that the defendant knowingly assisted in the offense through the provision or selection of electronic mail addresses of the recipients obtained using an automated means that generated possible electronic mail addresses by combining names, letters, or numbers into numerous permutations.

COMMENT

Drawn from R.C. 2913.421(C)(2)(f).

CR 513.421(D) Unauthorized access of computer R.C 2913.421(D) (offenses committed on and after 9/30/11) [Rev. 3/12/22]

1. The defendant is charged with unauthorized access of a computer. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with regard to commercial electronic mail messages sent (from) (to) a computer in Ohio, knowingly accessed a computer without authorization and purposely initiated the transmission of multiple commercial electronic mail messages (from) (through) the computer.

2. COMMERCIAL ELECTRONIC MAIL MESSAGES.**COMMENT**

R.C. 2913.421(A)(2).

3. **ELECTRONIC MAIL MESSAGE.** "Electronic mail message" means each electronic mail addressed to a discrete addressee.

COMMENT

R.C. 2913.421(A)(5).

4. ELECTRONIC MAIL. R.C. 2913.421(A)(4).
5. COMPUTER. R.C. 2913.01, R.C. 2913.421(A)(1).
6. KNOWINGLY. R.C. 2901.22(B); OJI-CR 417.11.
7. PURPOSELY. R.C. 2901.22(A); OJI-CR 417.01.
8. MULTIPLE. R.C. 2913.421(A)(12).
9. ADDITIONAL FINDINGS:
 - (A) PRIOR CONVICTION. OJI-CR 425.15.
 - (B) COMMISSION IN FURTHERANCE OF A FELONY.

COMMENT

The court must instruct on the elements of the felony offense, including the appropriate culpable mental state, as indicated by the facts of the case.

10. CONCLUSION. OJI-CR 425.01, OJI-CR 425.33.
11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.
12. PRIOR CONVICTION. OJI-CR 425.15.

COMMENT

In *State v. Creech*, the court held that a trial court abuses its discretion when it refuses a defendant's offer to stipulate to the fact of prior convictions. *State v. Creech*, 150 Ohio St.3d 540, 2016-Ohio-8440.

13. VERDICT FORM ON ADDITIONAL FINDING IN FURTHERANCE OF A FELONY.

We, the jury, having found the defendant guilty of unauthorized access of a computer, further find that the state _____ (insert in ink: "did" or "did not") prove beyond a reasonable doubt that the defendant committed the offense in furtherance of (*insert name of felony*).

COMMENT

Drawn from R.C. 2913.421(E).

This verdict form should be given only if the indictment charges that the defendant committed the offense in furtherance of a felony. The Committee believes that this verdict form satisfies *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

CR 513.43 Securing writings by deception R.C. 2913.43 (offenses committed on and after 7/1/96)

1. The defendant is charged with securing writing by deception. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, by deception, caused (insert name of victim) to execute (describe writing) (which disposed of property) (which encumbered property) (by which [insert name of victim] incurred a [pecuniary] [monetary] obligation).

2. DECEPTION. R.C. 2913.01(A).

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

4. EXECUTE. "Execute" means to sign a document.

5. WRITING. R.C. 2913.01(F).

6. ENCUMBERED. "Encumbered" means to make property subject to a charge, liability or burden, such as a mortgage, security interest, easement, restriction, limitation of use, lien or other obligation.

7. PROPERTY. R.C. 2901.01(A)(10)(a).

8. ADDITIONAL FINDING:

VALUE. OJI-CR 425.23; R.C. 2913.43(B), 2913.61.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.44 Personating an officer R.C. 2913.44

1. The defendant is charged with personating an officer. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant (with purpose to defraud) (knowing that he/she was facilitating or aiding a fraud) (with purpose to induce another to purchase [property] [services]) personated a (law enforcement officer) (an [inspector] [investigator] [agent] of [insert name of governmental agency]).

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. DEFRAUD AND FRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical to that of the verb

“defraud.”

4. DECEPTION. R.C. 2913.01(A).
5. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
6. FACILITATING. “Facilitating” means helping, promoting, assisting or aiding.
7. PROPERTY. R.C. 2901.01(A)(10)(a).
8. SERVICES. “Services” includes labor, personal services, professional services, public utility services, common carrier services, and food, drink, transportation, entertainment, and cable television services.

COMMENT

R.C. 2913.01(E).

9. PERSONATED. “Personated” means pretended to be.
10. CONCLUSION. OJI-CR 425.01.
11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.45 Defrauding creditors R.C. 2913.45 (offenses committed on and after 7/1/96)

1. The defendant is charged with defrauding creditors. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, with purpose to defraud (*name of victim*) who (was) (were) his/her creditor(s)

(Use appropriate alternative)

(A)(1) (removed) (concealed) (destroyed) (encumbered) (conveyed) (*describe other dealings*) his/her (*describe property*).

(or)

(A)(2) (misrepresented) (refused to disclose) to a fiduciary appointed to (administer) (manage) his/her (affairs) (estate), the (existence) (amount) (location) (*describe other information*) of his/her (*describe property*) which he/she was legally required to furnish to his/her fiduciary.

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
3. DEFRAUD AND FRAUD. “Defraud” means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical to that of the verb "defraud."

4. **ENCUMBERED.** "Encumbered" means to make property subject to a charge, liability or burden, such as a mortgage, security, interest, easement, restriction, limitation of use, lien or other obligation.
5. **CONVEYED.** "Conveyed" means to pass or transmit the title to property from one to another.
6. **PROPERTY.** OJI-CR 513.02 § 3; R.C. 2901.01(A)(10)(a).
7. **FIDUCIARY.**

COMMENT

Depending on the facts an instruction may be required on this term; the fiduciary could be a guardian appointed by the probate division, receiver or trustee appointed by the Court, a trustee in bankruptcy, etc.

8. **ADDITIONAL FINDING:**
VALUE. OJI-CR 425.23; R.C. 2913.45(B), 2913.61.
9. **CONCLUSION.** OJI-CR 425.01.
10. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

CR 513.46(B) Illegal use of food stamps or WIC program benefits R.C. 2913.46(B) (offenses committed on and after 9/26/96)

COMMENT

Between 10/29/95 and 9/26/96 this statute was amended at least five times. If the date of the crime charged falls within those dates, caution should be used in selecting the appropriate amended statute and preparing an instruction which applies to that amended statute.

State v. Gill (1992), 63 Ohio St.3d 53, 584 N.E.2d 1200, held that the former R.C. 2913.46(A) is not an unconstitutional delegation of legislative authority to the U.S. Congress, interpreting the phrase "as amended" to refer only to those amendments of the Food Stamp Act that existed on the date of enactment of the former R.C. 2913.46(A).

1. The defendant is charged with illegal use of (food stamps) (WIC program benefits).

Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (possessed) (bought) (sold) (used) (altered) (accepted) (transferred) any (food stamp coupons) (WIC program benefits) (electronically transferred benefit) in any manner not authorized by the (Food Stamp Act) (Child Nutrition Act).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. WIC PROGRAM BENEFITS. R.C. 2913.46(A)(1)(b).
4. ELECTRONICALLY TRANSFERRED BENEFIT. "Electronically transferred benefit" means the transfer of food stamp program benefits or WIC program benefits through the use of an access device.
5. ACCESS DEVICE. R.C. 2913.46(A)(1)(c).
6. FOOD STAMP ACT. Section 2011, Title 7, U.S. Code.
7. CHILD NUTRITION ACT. Section 1786, Title 42, U.S. Code.
8. ADDITIONAL FINDING:
AGGREGATE VALUE OF FOOD STAMP COUPONS, WIC PROGRAM BENEFITS, AND ELECTRONICALLY TRANSFERRED BENEFITS. OJI-CR 425.23; R.C. 2913.46(D).
9. CONCLUSION. OJI-CR 425.01.
10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.46(C) Illegal use of food stamps or WIC program benefits R.C. 2913.46(C) (offenses committed on and after 9/26/96)

COMMENT

Between 10/29/95 and 9/26/96 this statute was amended at least five times. If the crime charged falls within those dates, caution should be used in selecting the appropriate amended statute in preparing an instruction which applies to that amended statute.

1. The defendant is charged with illegal use of (food stamps) (WIC program benefits). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, an organization,

(Use appropriate alternative)

(C)(1) knowingly allowed an (employee) (agent) to (sell) (transfer) (trade) items or services, the purchase of which is prohibited by the (Food Stamp Act) (Child Nutrition Act) in exchange for (food stamp coupons) (WIC program benefits) (any electronically transferred benefit).

(or)

(C)(2) negligently allowed an (employee) (agent) to (sell) (transfer) (exchange) any (food stamp coupons) (WIC program benefits) (electronically transferred benefit).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. NEGLIGENTLY. OJI-CR 417.19; R.C. 2901.22(D).
4. FOOD STAMP ACT. Section 2011, Title 7, U.S. Code.
5. CHILD NUTRITION ACT. Section 1786, Title 42, U.S. Code.
6. ORGANIZATION. "Organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust, or other commercial or legal entity.

COMMENT

Pursuant to R.C. 2913.46(C) the defendant must be an organization as defined by R.C. 2901.23(D). Ordinarily the question whether the defendant is an organization as defined by R.C. 2901.23(D) is a question of law for the Court to decide.

7. **ADDITIONAL FINDING:**

AGGREGATE VALUE OF FOOD STAMP COUPONS, WIC PROGRAM BENEFITS, AND ELECTRONICALLY TRANSFERRED BENEFITS. OJI-CR 425.23; R.C. 2913.46(D).

8. **CONCLUSION.** OJI-CR 425.01.

9. **CONCLUSION WITH LESSER INCLUDED OFFENSE.** OJI-CR 425.09, OJI-CR 425.11.

CR 513.47 Insurance fraud R.C. 2913.47 (offenses committed on and after 7/1/96)

1. The defendant is charged with insurance fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant (with purpose to defraud) (knowing that he/she was facilitating a fraud)

(Use appropriate alternative)

(A) (Presented to) (caused to be presented to) an insurer any (written) (oral) statement that is (part of) (in support of) (an application for insurance) (a claim for payment on a policy) (claim for any benefit on a policy), knowing that the statement or any part of the statement was (false) (deceptive).

(or)

(B) (Assisted) (aided) (abetted) (solicited) (procured) (conspired) with another to

(prepare) (make) any (written) (oral) statement that was intended to be presented to an insurer as (part of) (in support of) an (application for insurance) (claim for payment) (a claim for other benefit) of a policy, knowing that the statement or any part of the statement was (false) (deceptive).

2. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. FACILITATING. "Facilitating" means helping, assisting, promoting, or aiding.
5. DEFRAUD; FRAUD. "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another or to knowingly cause, by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical to that of the verb "defraud."

6. INSURER. R.C. 2913.47(A)(3).
7. STATEMENT. R.C. 2913.47(A)(5).
8. DATA. R.C. 2913.47(A)(1).
9. POLICY. "Policy" means a policy, certificate, contract, or plan that is issued by an insurer.

COMMENT

R.C. 2913.47(A)(4).

10. DECEPTIVE. R.C. 2913.47(A)(2).
11. ADDITIONAL FINDING:
VALUE. OJI-CR 425.23; R.C. 2913.47(C); 2913.61.
12. CONCLUSION. OJI-CR 425.01.
13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.48 Workers' compensation fraud R.C. 2913.48 (offenses committed on and after 7/1/96)

1. Defendant is charged with workers' compensation fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction) Ohio, the defendant, (with purpose to defraud) (knowing that he/she was facilitating a fraud),

(Use appropriate alternative[s])

(A)(1) received worker's compensation benefits to which the defendant was not entitled.

(or)

(A)(2) (made) (presented) (caused to be made) (caused to be presented) a (false) (misleading) statement with purpose to secure (payment for [goods] [services] provided under [*describe applicable statute*]) (workers' compensation benefits).

(or)

(A)(3) (alter) (falsify) (destroy) (conceal) (remove) a (record) (document) that is necessary to (fully establish the validity of a claim filed with) (establish the nature and validity of all goods and services with which [reimbursement] [payment] was [received] [requested] from) the (bureau of workers compensation) (*name of self-insuring employer*).

(or)

(A)(4) (entered into an agreement) (conspired) to defraud the (bureau of workers' compensation) (*name of self-insuring employer*) by (making) (presenting) (causing to be made) (causing to be presented) a false claim for workers' compensation benefits.

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. DEFRAUD; FRAUD. "Defraud" means to knowingly obtain, by deception some benefit for oneself or another or knowingly cause by deception, some detriment to another.

COMMENT

R.C. 2913.01(B). The definition of the noun "fraud" is identical to that of the verb "defraud."

4. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

5. FACILITATING. "Facilitating" means helping, promoting, assisting or aiding.

6. WORKERS' COMPENSATION BENEFITS. R.C. 2913.48(E)(10).

7. FALSE. "False" means wholly or partially untrue or deceptive.

COMMENT

R.C. 2913.48(E)(1).

8. DECEPTION. R.C. 2913.01(A).

9. STATEMENT. R.C. 2913.48(E)(2).

10. GOODS. R.C. 2913.48(E)(2).
11. SERVICES. “Services” includes, but is not limited to, any service provided by any health care provider to a claimant for workers’ compensation benefits.

COMMENT

R.C. 2913.48(E)(3).

12. RECORD. R.C. 2913.48(E)(9).
13. CLAIM. R.C. 2913.48(E)(4).
14. CONSPIRED. OJI-CR 523.01 § 4.
15. ADDITIONAL FINDING:
VALUE. OJI-CR 425.23; R.C. 2913.48(B), 2913.61
16. CONCLUSION. OJI-CR 425.01.
17. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 513.49 Identity Fraud R.C. 2913.49 (offenses committed on and after 9/16/05 but before 9/30/11) [Rev. 1-21-12]

1. The defendant is charged with identity fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant

(Use appropriate alternative[s])

(A)(1), without the express or implied consent of (*insert name of victim*), (used) (obtained) (possessed) any personal identifying information of (*insert name of victim*) with the intent to (hold himself/herself/itself out to be [*insert name of victim*]) (represent [*insert name of victim*]’s personal identifying information as the defendant’s own personal identifying information);

COMMENT

Drawn from R.C. 2913.49(B).

(or)

(A)(2) (created) (obtained) (possessed) (used) the personal identifying information of (*insert name of victim*) with the intent to aid or abet (*insert name of third person*) in (using) (obtaining) (possessing) any personal identifying information of (*insert name of victim*) with the intent to (hold [*insert name of third person*] out to be [*insert name*

of victim]) (represent [insert name of victim]'s personal identifying information as [insert name of third person]'s own personal identifying information) and without the express or implied consent of (insert name of victim);

COMMENT

Drawn from R.C. 2913.49(C).

"Third person" means an individual that is neither the defendant nor the victim of the conduct.

(or)

(A)(3), with intent to defraud, permitted (insert name of other person) to use the defendant's own personal identifying information;

COMMENT

Drawn from R.C. 2913.49(D).

(or)

(A)(4), although permitted to use (insert name of other person)'s personal identifying information, (used) (obtained) (possessed) the personal identifying information of (insert name of other person) with intent to defraud any person by (holding himself/herself/itself out to be [insert name of other person]) (representing [insert name of other person]'s personal identifying information as the defendant's own personal identifying information).

COMMENT

Drawn from R.C. 2913.49(E).

2. **CONSENT.** OJI-CR 513.02.

3. **LACK OF CAPACITY (ADDITIONAL).** A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

4. PERSONAL IDENTIFYING INFORMATION. R.C. 2913.49(A).
5. INTENT. OJI-CR 417.01; R.C. 2901.22(A).

COMMENT

The Committee believes the element included in this offense that the offense be committed with “intent” requires an instruction on purposely. *Grossweiler v. State*, 113 Ohio St. 46 (1925). Purpose and intent are synonymous. *White v. Maxwell*, 174 Ohio St. 186 (1963).

6. PURPOSEFULLY. OJI-CR 417.01; R.C. 2901.22(A).
7. AIDED OR ABETTED. “Aided or abetted” means supported, assisted, encouraged, cooperated with, advised, or incited.

COMMENT

OJI-CR 523.03.

8. DEFRAUD. R.C. 2913.01.
9. AFFIRMATIVE DEFENSES:
 - (A) GENERAL. OJI-CR 417.27.

(B) RELATIONSHIP TO OTHER PERSON. The defendant claims that he/she/it was acting (in accordance with a legally recognized [guardianship] [conservatorship]) (as a [trustee] [fiduciary]).

COMMENT

Drawn from R.C. 2913.49(F)(1). This affirmative defense is limited by statute to R.C. 2913.49(B).

Depending on the facts, an instruction may be required on the term “fiduciary”; the fiduciary could be a guardian appointed by the probate division, a receiver or trustee appointed by the court, a trustee in bankruptcy, etc.

(C) LAW ENFORCEMENT AGENCY. The defendant claims that he/she/it is a/an (law enforcement agency) (authorized fraud personnel) ([representative of] [attorney for] a/an [law enforcement agency] [authorized fraud personnel]) who/that (used) (obtained) (possessed) (created) (permitted the use of) the personal identifying information of (*insert name of other person*) with (*insert name of other person*)’s prior consent in (a bona fide investigation) (an information security evaluation) (a pretext calling evaluation) (*insert other similar matter*). If the person whose personal identifying information is (used) (obtained) (possessed) (created) (being permitted to

be used) is deceased, the prior consent shall have been given by the deceased person's (executor) (family member) (attorney). Prior consent may be given orally or in writing.

COMMENT

Drawn from R.C. 2913.49(F)(2)(a).

(D) **LAWFUL PURPOSE.** The defendant claims that the information was (obtained) (possessed) (used) (created) (permitted to be used) for a lawful purpose.

COMMENT

Drawn from R.C. 2913.49(F)(2)(b).

This affirmative defense does not apply to the entities identified in R.C. 2913.49(F)(2)(a).

10. **LAW ENFORCEMENT AGENCY.** "Law enforcement agency" includes any agency office or organization in which a law enforcement officer functions to conserve the peace, enforce the law, or arrest offenders.

COMMENT

Depending on the facts, an instruction may be required about who is a "law enforcement officer." R.C. 2901.01.

11. ADDITIONAL FINDINGS:

(A) **VALUE.** If you find the defendant guilty of (*describe specific offense under R.C. 2913.49[B], [C], [D], or [E]*), you must decide beyond a reasonable doubt the specific amount of all credit, property, or services (obtained) (sought to be obtained) by the defendant and/or all debts or other legal obligations (avoided) (sought to be avoided) by the defendant involved in that offense. It is not necessary to find and return the exact value, and it is sufficient that the finding of the value of the (credit) (property) (services) (debts) (other legal obligations) is expressed as a monetary range set out in the accompanying verdict form.

COMMENT

Drawn from R.C. 2913.49(H) and R.C. 2913.61.

The court shall instruct the jury on the criteria to use in determining value.

The amount of the value differs based upon specific offenses and specific findings for those offenses. For example, the degree of felony will change for the same

amount of value if the victim is an elderly person or disabled adult. R.C. 2913.49(I).

(B) AGGREGATE VALUE (ADDITIONAL).

(Use appropriate alternative[s])

(1) PRIMARY OFFENDER AND IDENTITY FRAUD OFFENSES. If you find beyond a reasonable doubt the defendant committed an offense of *(describe specific offense under R.C. 2913.49 [B], [D], or [E])* and you find beyond a reasonable doubt the offense was committed as part of a course of conduct involving other *(describe specific offense[s] under R.C. 2913.49 [B], [D], or [E])*, you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), for each separate offense committed as part of the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(1).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury R.C. 2913.49(H)(1).

(or)

(2) PRIMARY OFFENDER WITH OTHER OFFENSES. If you find beyond a reasonable doubt the defendant committed an offense of *(describe specific offense under R.C. 2913.49 [B], [D], or [E])* and you find beyond a reasonable doubt that the offense was committed as part of a course of conduct involving (violation[s]) (attempt[s] to violate) (conspiracy to violate) (complicity in the violation) of other *(describe specific offense[s])*, you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), for each separate violation involved in the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(1).

The Committee believes the other offenses in this instruction are limited to offenses of R.C. 2913.49(C), R.C. 2913.03 (Theft), R.C. 2913.04 (Unauthorized use of property), R.C. 2913.11 (Passing bad checks), R.C. 2913.21 (Misuse of credit card), R.C. 2913.31 (Forgery), R.C. 2913.42 (Tampering with records), R.C. 2913.43 (Securing writings by deception) and R.C. 2921.13 (Falsification).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts

or other legal obligations avoided or sought to be avoided, as decided by the jury.
R.C. 2913.49(H)(1).

(or)

(3) AIDER OR ABETTOR AND IDENTITY FRAUD OFFENSES. If you find beyond a reasonable doubt the defendant committed an offense of (*describe specific offense under R.C. 2913.49 [C]*) and find beyond a reasonable doubt that the offense was committed as part of a course of conduct involving other (*describe specific offense[s] under R.C. 2913.49 [C]*), and also find beyond a reasonable doubt that in committing the offense the defendant aided and abetted another, you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), by the person(s) aided or abetted for each separate offense committed as part of the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(2).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury.
R.C. 2913.49(H)(2).

(or)

(4) AIDER OR ABETTOR WITH OTHER OFFENSES. If you find beyond a reasonable doubt the defendant committed an offense of (*describe specific offense under R.C. 2913.49 [C]*) and you find beyond a reasonable doubt that the offense was committed as part of a course of conduct involving (violation[s]) (attempt[s] to violate) (conspiracy to violate) (complicity in the violation) of other (*describe specific offense[s]*), and also find beyond a reasonable doubt that in committing the offense the defendant aided and abetted another, you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), for the person(s) aided or abetted for each separate violation involved in the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(2).

The Committee believes that the other offense in this instruction are limited to offenses of R.C. 2913.49(B), (D) or (E), R.C. 2913.03 (Theft), R.C. 2913.04 (Unauthorized use of property), R.C. 2913.11 (Passing bad checks), R.C. 2913.21 (Misuse of credit card), R.C. 2913.31 (Forgery), R.C. 2913.42 (Tampering with records), R.C. 2913.43 (Securing writings by deception) and R.C. 2921.13 (Falsification).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(2).

(C) ELDERLY PERSON. R.C. 2913.01, 2913.49 (I). If you find the defendant guilty of (*insert name of offense*), you must decide beyond a reasonable doubt whether the victim was an elderly person.

(D) DISABLED ADULT. R.C. 2913.01, 2913.49 (I). If you find the defendant guilty of (*insert name of offense*), you must decide beyond a reasonable doubt whether the victim was a disabled adult.

(E) DEFINITIONS:

(1) CREDIT. “Credit” means the right granted by a creditor to a debtor to defer payment of a debt or to incur debt and defer its payment.

COMMENT

R.C. 1349.25(E).

(2) PROPERTY. R.C. 2901.01.

(3) SERVICES. OJI-CR 513.02; R.C. 2913.01.

(4) ELDERLY PERSON. “Elderly person” means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(5) DISABLED ADULT. R.C. 2913.01.

(6) COURSE OF CONDUCT. “Course of conduct” means that there is some factual link between the (*insert name of offense the defendant committed*) and the other offense(s) that the defendant committed. The factual link can be one of time, location, means, (*describe other factual link[s]*), or similar motivation on the defendant’s part for his/her/its crimes. All of the circumstances of the offenses must be taken into account, and there must be some connection, common (scheme) (plan), pattern, or psychological thread that ties the offense together. The course of conduct may involve one victim or more than one victim.

COMMENT

Drawn from R.C. 2913.49(H); *State v. Hand*, 107 Ohio St.3d 378, 2006-Ohio-18;

State v. Sapp, 105 Ohio St. 3d 104, 2004-Ohio-7008.

- (7) ATTEMPT. OJI-CR 523.02.
- (8) CONSPIRACY. OJI-CR 523.01.
- (9) COMPLICITY. OJI-CR 523.03.
- 12. CONCLUSION. OJI-CR 425.01.
- 13. CONCLUSION WITH AFFIRMATIVE OFFENSE. OJI-CR 425.03.
- 14. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.
- 15. VERDICT FORM.

We, the jury, having found the defendant guilty of identity fraud, further find beyond a reasonable doubt that the value of the (credit) (property) (services) (debt) (other legal obligation) involved was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to decide the degree of offense. R.C. 2913.61.

- 16. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of identity fraud, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in (A). If you found that the victim was a/an (elderly person)

(disabled adult), use the verdict form listed in (B).

(A) We, the jury, having found the defendant guilty of identity fraud and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (credit) (property) (services) (debt) (other legal obligation) involved was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more"

(B) We, the jury, having found the defendant guilty of identity fraud and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (credit) (property) (services) (debt) (other legal obligation) involved was * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to decide the degree of offense. R.C. 2913.61.

17. COURSE OF CONDUCT VERDICT FORM.

COMMENT

If the allegation is that the offense was committed as part of a course of conduct, the court should add the following language to the verdict form given to the jury.

We, the jury, further find beyond a reasonable doubt that the value for each separate offense/violation committed as part of the course of conduct was: * _____.

(describe offense/violation): * _____.

(describe offense/violation): * _____.

(describe offense/violation): * _____.

* Insert in ink:

either "less than \$500"

or "\$500 or more and less than \$5,000"

or "\$5,000 or more and less than \$100,000"

or "\$100,000 or more"

COMMENT

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(1).

CR 513.49 Identity Fraud R.C. 2913.49 (offenses committed on and after 9/30/11) [Rev. 1-21-12]

1. The defendant is charged with identity fraud. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant

(Use appropriate alternative[s])

(A)(1), without the express or implied consent of (*insert name of victim*), (used) (obtained) (possessed) any personal identifying information of (*insert name of victim*) with the intent to (hold himself/herself/itself out to be [*insert name of victim*]) (represent [*insert name of victim*]'s personal identifying information as the defendant's own personal identifying information);

COMMENT

Drawn from R.C. 2913.49(B).

(or)

(A)(2) (created) (obtained) (possessed) (used) the personal identifying information of (*insert name of victim*) with the intent to aid or abet (*insert name of third person*) in (using) (obtaining) (possessing) any personal identifying information of (*insert name of victim*) with the intent to (hold [*insert name of third person*] out to be [*insert name of victim*]) (represent [*insert name of victim*]'s personal identifying information as [*insert name of third person*]'s own personal identifying information) and without the express or implied consent of (*insert name of victim*);

COMMENT

Drawn from R.C. 2913.49(C).

“Third person” means an individual that is neither the defendant nor the victim of the conduct.

(or)

(A)(3), with intent to defraud, permitted (*insert name of other person*) to use the defendant’s own personal identifying information;

COMMENT

Drawn from R.C. 2913.49(D).

(or)

(A)(4), although permitted to use (*insert name of other person*)’s personal identifying information, (used) (obtained) (possessed) the personal identifying information of (*insert name of other person*) with intent to defraud any person by (holding himself/herself/itself out to be [*insert name of other person*]) (representing [*insert name of other person*]’s personal identifying information as the defendant’s own personal identifying information).

COMMENT

Drawn from R.C. 2913.49(E).

2. CONSENT. OJI-CR 513.02.

3. LACK OF CAPACITY (ADDITIONAL). A person lacks the capacity to consent when he/she is impaired for any reason to the extent that he/she lacks sufficient understanding or capacity to make or carry out reasonable decisions concerning (himself/herself) (his/her resources).

COMMENT

Drawn from R.C. 2913.73. This instruction should only be read to the jury if the capacity of the victim to consent is at issue.

4. PERSONAL IDENTIFYING INFORMATION. R.C. 2913.49(A).

5. INTENT. OJI-CR 417.01; R.C. 2901.22(A).

COMMENT

The Committee believes the element included in this offense that the offense be committed with “intent” requires an instruction on purposely. *Grossweiler v. State*,

113 Ohio St. 46 (1925). Purpose and intent are synonymous. *White v. Maxwell*, 174 Ohio St. 186 (1963).

6. PURPOSEFULLY. OJI-CR 417.01; R.C. 2901.22(A).

7. AIDED OR ABETTED. "Aided or abetted" means supported, assisted, encouraged, cooperated with, advised, or incited.

COMMENT

OJI-CR 523.03.

8. DEFRAUD. R.C. 2913.01.

9. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B) RELATIONSHIP TO OTHER PERSON. The defendant claims that he/she/it was acting (in accordance with a legally recognized [guardianship] [conservatorship]) (as a [trustee] [fiduciary]).

COMMENT

Drawn from R.C. 2913.49(F)(1). This affirmative defense is limited by statute to R.C. 2913.49(B).

Depending on the facts, an instruction may be required on the term "fiduciary"; the fiduciary could be a guardian appointed by the probate division, a receiver or trustee appointed by the court, a trustee in bankruptcy, etc.

(C) LAW ENFORCEMENT AGENCY. The defendant claims that he/she/it is a/an (law enforcement agency) (authorized fraud personnel) ([representative of] [attorney for] a/an [law enforcement agency] [authorized fraud personnel]) who/that (used) (obtained) (possessed) (created) (permitted the use of) the personal identifying information of (*insert name of other person*) with (*insert name of other person*)'s prior consent in (a bona fide investigation) (an information security evaluation) (a pretext calling evaluation) (*insert other similar matter*). If the person whose personal identifying information is (used) (obtained) (possessed) (created) (being permitted to be used) is deceased, the prior consent shall have been given by the deceased person's (executor) (family member) (attorney). Prior consent may be given orally or in writing.

COMMENT

Drawn from R.C. 2913.49(F)(2)(a).

(D) **LAWFUL PURPOSE.** The defendant claims that the information was (obtained) (possessed) (used) (created) (permitted to be used) for a lawful purpose.

COMMENT

Drawn from R.C. 2913.49(F)(2)(b).

This affirmative defense does not apply to the entities identified in R.C. 2913.49(F)(2)(a).

10. **LAW ENFORCEMENT AGENCY.** “Law enforcement agency” includes any agency office or organization in which a law enforcement officer functions to conserve the peace, enforce the law, or arrest offenders.

COMMENT

Depending on the facts, an instruction may be required about who is a “law enforcement officer.” R.C. 2901.01.

11. **ADDITIONAL FINDINGS:**

(A) **VALUE.** If you find the defendant guilty of (*describe specific offense under R.C. 2913.49[B], [C], [D], or [E]*), you must decide beyond a reasonable doubt the specific amount of all credit, property, or services (obtained) (sought to be obtained) by the defendant and/or all debts or other legal obligations (avoided) (sought to be avoided) by the defendant involved in that offense. It is not necessary to find and return the exact value, and it is sufficient that the finding of the value of the (credit) (property) (services) (debts) (other legal obligations) is expressed as a monetary range set out in the accompanying verdict form.

COMMENT

Drawn from R.C. 2913.49(H) and R.C. 2913.61.

The court shall instruct the jury on the criteria to use in determining value.

The amount of the value differs based upon specific offenses and specific findings for those offenses. For example, the degree of felony will change for the same amount of value if the victim is an elderly person or disabled adult. R.C. 2913.49(I).

(B) **AGGREGATE VALUE (ADDITIONAL).**

(Use appropriate alternative[s])

(1) **PRIMARY OFFENDER AND IDENTITY FRAUD OFFENSES.** If you find beyond a reasonable doubt the defendant committed an offense of (*describe*

specific offense under R.C. 2913.49 [B], [D], or [E]) and you find beyond a reasonable doubt the offense was committed as part of a course of conduct involving other (describe specific offense[s] under R.C. 2913.49 [B], [D], or [E]), you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), for each separate offense committed as part of the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(1).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(1).

(or)

(2) **PRIMARY OFFENDER WITH OTHER OFFENSES.** If you find beyond a reasonable doubt the defendant committed an offense of (*describe specific offense under R.C. 2913.49 [B], [D], or [E]*) and you find beyond a reasonable doubt that the offense was committed as part of a course of conduct involving (violation[s]) (attempt[s] to violate) (conspiracy to violate) (complicity in the violation) of other (*describe specific offense[s]*), you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), for each separate violation involved in the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(1).

The Committee believes the other offenses in this instruction are limited to offenses of R.C. 2913.49(C), R.C. 2913.03 (Theft), R.C. 2913.04 (Unauthorized use of property), R.C. 2913.11 (Passing bad checks), R.C. 2913.21 (Misuse of credit card), R.C. 2913.31 (Forgery), R.C. 2913.42 (Tampering with records), R.C. 2913.43 (Securing writings by deception) and R.C. 2921.13 (Falsification).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(1).

(or)

(3) **AIDER OR ABETTOR AND IDENTITY FRAUD OFFENSES.** If you find beyond a reasonable doubt the defendant committed an offense of (*describe specific offense under R.C. 2913.49 [C]*) and find beyond a reasonable doubt that

the offense was committed as part of a course of conduct involving other (*describe specific offense[s] under R.C. 2913.49 [C]*), and also find beyond a reasonable doubt that in committing the offense the defendant aided and abetted another, you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), by the person(s) aided or abetted for each separate offense committed as part of the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(2).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(2).

(or)

(4) AIDER OR ABETTOR WITH OTHER OFFENSES. If you find beyond a reasonable doubt the defendant committed an offense of (*describe specific offense under R.C. 2913.49 [C]*) and you find beyond a reasonable doubt that the offense was committed as part of a course of conduct involving (violation[s]) (attempt[s] to violate) (conspiracy to violate) (complicity in the violation) of other (*describe specific offense[s]*), and also find beyond a reasonable doubt that in committing the offense the defendant aided and abetted another, you must decide the value of all credit, property, or services (obtained) (sought to be obtained) and/or all debts or other legal obligations (avoided) (sought to be avoided), for the person(s) aided or abetted for each separate violation involved in the course of conduct.

COMMENT

Drawn from R.C. 2913.49(H)(2).

The Committee believes that the other offense in this instruction are limited to offenses of R.C. 2913.49(B), (D) or (E), R.C. 2913.03 (Theft), R.C. 2913.04 (Unauthorized use of property), R.C. 2913.11 (Passing bad checks), R.C. 2913.21 (Misuse of credit card), R.C. 2913.31 (Forgery), R.C. 2913.42 (Tampering with records), R.C. 2913.43 (Securing writings by deception) and R.C. 2921.13 (Falsification).

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(2).

(C) ELDERLY PERSON. R.C. 2913.01, 2913.49 (I). If you find the defendant guilty of (*insert name of offense*), you must decide beyond a reasonable doubt

whether the victim was an elderly person.

(D) **DISABLED ADULT.** R.C. 2913.01, 2913.49 (I). If you find the defendant guilty of (*insert name of offense*), you must decide beyond a reasonable doubt whether the victim was a disabled adult.

(E) **DEFINITIONS:**

(1) **CREDIT.** “Credit” means the right granted by a creditor to a debtor to defer payment of a debt or to incur debt and defer its payment.

COMMENT

R.C. 1349.25(E).

(2) **PROPERTY.** R.C. 2901.01.

(3) **SERVICES.** OJI-CR 513.02; R.C. 2913.01.

(4) **ELDERLY PERSON.** “Elderly person” means a person who is sixty-five years of age or older.

COMMENT

R.C. 2913.01.

(5) **DISABLED ADULT.** R.C. 2913.01.

(6) **COURSE OF CONDUCT.** “Course of conduct” means that there is some factual link between the (*insert name of offense the defendant committed*) and the other offense(s) that the defendant committed. The factual link can be one of time, location, means, (*describe other factual link[s]*), or similar motivation on the defendant’s part for his/her/its crimes. All of the circumstances of the offenses must be taken into account, and there must be some connection, common (scheme) (plan), pattern, or psychological thread that ties the offense together. The course of conduct may involve one victim or more than one victim.

COMMENT

Drawn from R.C. 2913.49(H); *State v. Hand*, 107 Ohio St.3d 378, 2006-Ohio-18; *State v. Sapp*, 105 Ohio St. 3d 104, 2004-Ohio-7008.

(7) **ATTEMPT.** OJI-CR 523.02.

(8) **CONSPIRACY.** OJI-CR 523.01.

(9) **COMPLICITY.** OJI-CR 523.03.

12. CONCLUSION. OJI-CR 425.01.
13. CONCLUSION WITH AFFIRMATIVE OFFENSE. OJI-CR 425.03.
14. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.
15. VERDICT FORM.

We, the jury, having found the defendant guilty of identity fraud, further find beyond a reasonable doubt that the value of the (credit) (property) (services) (debt) (other legal obligation) involved was * _____.

* Insert in ink:

either "less than \$1,000"

or "\$1,000 or more and less than \$7,500"

or "\$7,500 or more and less than \$150,000"

or "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to decide the degree of offense. R.C. 2913.61.

16. ELDERLY PERSON OR DISABLED ADULT VERDICT FORM(S).

COMMENT

If there is a question of fact as to whether the victim of the offense is either an elderly person or a disabled adult, the judge should submit both verdict forms listed below.

We, the jury, having found the defendant guilty of identity fraud, further find beyond a reasonable doubt that the victim * _____ a/an (elderly person) (disabled adult).

*Insert in ink: "was" or "was not"

If you found that the victim was not a/an (elderly person) (disabled adult), use the verdict form listed in A. If you found that the victim was a/an (elderly person) (disabled adult), use the verdict form listed in B.

(A) We, the jury, having found the defendant guilty of identity fraud and that the victim was not a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (credit) (property) (services) (debt) (other legal obligation) involved was * _____.

* Insert in ink:

either "less than \$1,000"

or "\$1,000 or more and less than \$7,500"

or "\$7,500 or more and less than \$150,000"

or "\$150,000 or more"

(B) We, the jury, having found the defendant guilty of identity fraud and that the victim was a/an (elderly person) (disabled adult), further find beyond a reasonable doubt that the value of the (credit) (property) (services) (debt) (other legal obligation) involved was * _____.

* Insert in ink:

either "less than \$1,000"

or "\$1,000 or more and less than \$7,500"

or "\$7,500 or more and less than \$150,000"

or "\$150,000 or more"

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to decide the degree of offense. R.C. 2913.61.

17. COURSE OF CONDUCT VERDICT FORM.

COMMENT

If the allegation is that the offense was committed as part of a course of conduct, the court should add the following language to the verdict form given to the jury.

We, the jury, further find beyond a reasonable doubt that the value for each separate offense/violation committed as part of the course of conduct was: * _____.

(describe offense/violation): * _____.

(describe offense/violation): * _____.

(describe offense/violation): * _____.

* Insert in ink:

either "less than \$1,000"

or "\$1,000 or more and less than \$7,500"

or "\$7,500 or more and less than \$150,000"

or "\$150,000 or more"

COMMENT

The court, in determining the degree of the offense, may aggregate the value of all the credit, property, or services obtained or sought to be obtained and/or all debts or other legal obligations avoided or sought to be avoided, as decided by the jury. R.C. 2913.49(H)(1).

CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 7/1/96 but before 7/22/98) [Rev. 1/11/14]**COMMENT**

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with receiving stolen property. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 19_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (received) (retained) (disposed of) property of (*describe victim*) (knowing) (having reasonable cause to believe) that the property had been obtained through the commission of a theft offense.
2. PROPERTY. OJI-CR 513.02 § 3; R.C. 2901.01.
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.
5. THEFT OFFENSE. R.C. 2913.01.
6. TESTIMONY OF ACCOMPLICE. (ADDITIONAL). OJI-CR 409.17; R.C. 2923.03(D).

COMMENT

This instruction should be given only if the person who actually committed the theft offense is charged or indicted as an accomplice and testified. *State v. Burrell*, 8th Dist. No. 76890 (Sept. 14, 2000); *State v. Rankin*, 6th Dist. Lucas No. L-97-1424 (Jan. 22, 1999); *State v. Webb*, 72 Ohio App.3d 749 (6th Dist. 1991).

7. ADDITIONAL FINDINGS: OJI-CR 425.25.
 - (A) MOTOR VEHICLE. R.C. 4501.01.
 - (B) DANGEROUS DRUG. R.C. 2749.01.

COMMENT

The definition of dangerous drug was renumbered from R.C. 2749.02 to R.C. 2749.01 effective 7/22/98 (S.B. 66).

(C) VALUE. OJI-CR 425.23; R.C. 2913.51(B); R.C. 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be used to determine value.

(D) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61.

(E) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.61(B), R.C. 2913.71.

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

10. ADDITIONAL FINDING VERDICT FORM. We, the jury, having found the defendant guilty of receiving stolen property, further find beyond a reasonable doubt that the property that was (received) (retained) (disposed of) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) a motor vehicle;

(or)

(2) a dangerous drug;

(or)

(3) (specify other special property under R.C. 2913.61 or R.C. 2913.71);

(or)

(4) less than \$500;

(or)

(5) \$500 or more and less than \$5,000;

(or)

(6) \$5,000 or more and less than \$100,000;

(or)

(7) \$100,000 or more.

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 7/22/98 but before 10/29/99) [Rev. 1/11/14]**COMMENT**

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with receiving stolen property. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 19_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (received) (retained) (disposed of) property of (*describe victim*) (knowing) (having reasonable cause to believe) that the property had been obtained through the commission of a theft offense.
2. PROPERTY. OJI-CR 513.02 § 3; R.C. 2901.01.
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.
5. THEFT OFFENSE. R.C. 2913.01.
6. TESTIMONY OF ACCOMPLICE. (ADDITIONAL). OJI-CR 409.17; R.C. 2923.03(D).

COMMENT

This instruction should be given only if the person who actually committed the theft offense is charged or indicted as an accomplice and testified. *State v. Burrell*, 8th Dist. No. 76890 (Sept. 14, 2000); *State v. Rankin*, 6th Dist. Lucas No. L-97-1424 (Jan. 22, 1999); *State v. Webb*, 72 Ohio App.3d 749 (6th Dist. 1991).

7. ADDITIONAL FINDINGS: OJI-CR 425.25.
 - (A) MOTOR VEHICLE. R.C. 4501.01.
 - (B) DANGEROUS DRUG. R.C. 2749.01.

- (C) FIREARM. R.C. 2923.11.
- (D) DANGEROUS ORDNANCE. R.C. 2923.11.
- (E) VALUE. OJI-CR 425.23; R.C. 2913.51(B); R.C. 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be used to determine value.

- (F) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61.
- (G) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.61(B), R.C. 2913.71.

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

10. ADDITIONAL FINDING VERDICT FORM. We, the jury, having found the defendant guilty of receiving stolen property, further find beyond a reasonable doubt that the property that was (received) (retained) (disposed of) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) a motor vehicle;

(or)

(2) a dangerous drug;

(or)

(3) a firearm;

(or)

(4) a dangerous ordnance;

(or)

(5) *(specify other special property under R.C. 2913.61 or R.C. 2913.71);*

(or)

(6) less than \$500;

(or)

(7) \$500 or more and less than \$5,000;

(or)

(8) \$5,000 or more and less than \$100,000;

(or)

(9) \$100,000 or more.

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 10/29/99 but before 9/30/11) [Rev. 1/11/14]**COMMENT**

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with receiving stolen property. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (received) (retained) (disposed of) property of (*describe victim*) (knowing) (having reasonable cause to believe) that the property had been obtained through the commission of a theft offense.
2. PROPERTY. OJI-CR 513.02 § 3; R.C. 2901.01.
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.
5. THEFT OFFENSE. R.C. 2913.01.
6. TESTIMONY OF ACCOMPLICE. (ADDITIONAL). OJI-CR 409.17; R.C. 2923.03(D).

COMMENT

This instruction should be given only if the person who actually committed the theft offense is charged or indicted as an accomplice and testified. *State v. Burrell*, 8th Dist. No. 76890 (Sept. 14, 2000); *State v. Rankin*, 6th Dist. Lucas No. L-97-1424 (Jan. 22, 1999); *State v. Webb*, 72 Ohio App.3d 749 (6th Dist. 1991).

7. PROPERTY OBTAINED BY MEANS OTHER THAN THEFT (ADDITIONAL).
It is not a defense to a charge of receiving stolen property that the property was obtained

by means other than through the commission of a theft offense if the property was explicitly represented to the defendant as being obtained through the commission of a theft offense.

COMMENT

Drawn from R.C. 2913.51(B).

8. ADDITIONAL FINDINGS: OJI-CR 425.25.

- (A) MOTOR VEHICLE. R.C. 4501.01.
- (B) DANGEROUS DRUG. R.C. 2749.01.
- (C) FIREARM. R.C. 2923.11.
- (D) DANGEROUS ORDNANCE. R.C. 2923.11.
- (E) VALUE. OJI-CR 425.23; R.C. 2913.51(B); R.C. 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be used to determine value.

- (F) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61.
- (G) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.61(B), R.C. 2913.71.

9. CONCLUSION. OJI-CR 425.01.**10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.**

11. ADDITIONAL FINDING VERDICT FORM. We, the jury, having found the defendant guilty of receiving stolen property, further find beyond a reasonable doubt that the property that was (received) (retained) (disposed of) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) a motor vehicle;

(or)

(2) a dangerous drug;

(or)

(3) a firearm;

(or)

(4) a dangerous ordnance;

(or)

(5) (specify other special property under R.C. 2913.61 or R.C. 2913.71);

(or)

(6) less than \$500;

(or)

(7) \$500 or more and less than \$5,000;

(or)

(8) \$5,000 or more and less than \$100,000;

(or)

(9) \$100,000 or more.

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 9/30/11 but before 7/1/13) [Rev. 1/11/14]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense. *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with receiving stolen property. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant (received) (retained) (disposed of) property of (describe victim) (knowing) (having reasonable cause to believe) that the property had been obtained through the commission of a theft offense.

2. PROPERTY. OJI-CR 513.02 § 3; R.C. 2901.01.

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

4. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.

5. THEFT OFFENSE. R.C. 2913.01.
6. TESTIMONY OF ACCOMPLICE. (ADDITIONAL). OJI-CR 409.17; R.C. 2923.03(D).

COMMENT

This instruction should be given only if the person who actually committed the theft offense is charged or indicted as an accomplice and testified. *State v. Burrell*, 8th Dist. No. 76890 (Sept. 14, 2000); *State v. Rankin*, 6th Dist. Lucas No. L-97-1424 (Jan. 22, 1999); *State v. Webb*, 72 Ohio App.3d 749 (6th Dist. 1991).

7. PROPERTY OBTAINED BY MEANS OTHER THAN THEFT (ADDITIONAL). It is not a defense to a charge of receiving stolen property that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the defendant as being obtained through the commission of a theft offense.

COMMENT

Drawn from R.C. 2913.51(B).

8. ADDITIONAL FINDINGS: OJI-CR 425.25.
- (A) MOTOR VEHICLE. R.C. 4501.01.
 - (B) DANGEROUS DRUG. R.C. 2749.01.
 - (C) FIREARM. R.C. 2923.11.
 - (D) DANGEROUS ORDNANCE. R.C. 2923.11.
 - (E) VALUE. OJI-CR 425.23; R.C. 2913.51(B); R.C. 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be used to determine value.

- (F) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61.
 - (G) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.61(B), R.C. 2913.71.
9. CONCLUSION. OJI-CR 425.01.
10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.
11. ADDITIONAL FINDING VERDICT FORM. We, the jury, having found the defendant guilty of receiving stolen property, further find beyond a reasonable doubt

that the property that was (received) (retained) (disposed of) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) a motor vehicle;

(or)

(2) a dangerous drug;

(or)

(3) a firearm;

(or)

(4) a dangerous ordnance;

(or)

(5) *(specify other special property under R.C. 2913.61 or R.C. 2913.71);*

(or)

(6) less than \$1,000;

(or)

(7) \$1,000 or more and less than \$7,500;

(or)

(8) \$7,500 or more and less than \$150,000;

(or)

(9) \$150,000 or more.

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

CR 513.51 Receiving stolen property R.C. 2913.51 (offenses committed on and after 7/1/13) [Rev. 1/11/14]

COMMENT

The degree of some offenses in R.C. Chapter 2913 is determined by the identity or value of the property or services involved or the status of the victim. The following instructions are designed to require the verdict, if guilty, to state specifically the additional finding(s) that determine(s) the degree of the offense.

State v. Pelfrey, 112 Ohio St.3d 422, 2007-Ohio-256.

1. The defendant is charged with receiving stolen property. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant (received) (retained) (disposed of) property of (*describe victim*) (knowing) (having reasonable cause to believe) that the property had been obtained through the commission of a theft offense.
2. PROPERTY. OJI-CR 513.02 § 3; R.C. 2901.01.
3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. REASONABLE CAUSE TO BELIEVE. OJI-CR 417.37.
5. THEFT OFFENSE. R.C. 2913.01.
6. TESTIMONY OF ACCOMPLICE. (ADDITIONAL). OJI-CR 409.17; R.C. 2923.03(D).

COMMENT

This instruction should be given only if the person who actually committed the theft offense is charged or indicted as an accomplice and testified. *State v. Burrell*, 8th Dist. No. 76890 (Sept. 14, 2000); *State v. Rankin*, 6th Dist. Lucas No. L-97-1424 (Jan. 22, 1999); *State v. Webb*, 72 Ohio App.3d 749 (6th Dist. 1991).

7. PROPERTY OBTAINED BY MEANS OTHER THAN THEFT (ADDITIONAL). It is not a defense to a charge of receiving stolen property that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the defendant as being obtained through the commission of a theft offense.

COMMENT

Drawn from R.C. 2913.51(B).

8. ADDITIONAL FINDINGS: OJI-CR 425.25.
 - (A) MOTOR VEHICLE. R.C. 4501.01.
 - (B) DANGEROUS DRUG. R.C. 2749.01.
 - (C) FIREARM. R.C. 2923.11.
 - (D) DANGEROUS ORDNANCE. R.C. 2923.11.
 - (E) VALUE. OJI-CR 425.23; R.C. 2913.51(B); R.C. 2913.61(A).

COMMENT

The Committee believes that the additional finding verdict form below should be

used to determine value.

- (F) AGGREGATE VALUE. OJI-CR 425.23; R.C. 2913.61.
- (G) SPECIAL PROPERTY. OJI-CR 425.23; R.C. 2913.61(B), R.C. 2913.71.
- (H) SPECIAL PURPOSE ARTICLE(S). R.C. 4737.04.

COMMENT

If the value of the special purpose article is less than \$7,500, then the offense is a fifth degree felony. R.C. 2913.51(D).

- (I) BULK MERCHANDISE CONTAINER(S). R.C. 4737.012.

COMMENT

If the value of the special purpose article is less than \$7,500, then the offense is a fifth degree felony. R.C. 2913.51(D).

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

11. ADDITIONAL FINDING VERDICT FORM. We, the jury, having found the defendant guilty of receiving stolen property, further find beyond a reasonable doubt that the property that was (received) (retained) (disposed of) was * _____.

* Insert in ink:

(Use appropriate alternative[s])

(1) a motor vehicle;

(or)

(2) a dangerous drug;

(or)

(3) a firearm;

(or)

(4) a dangerous ordnance;

(or)

(5) *(specify other special property under R.C. 2913.61 or R.C. 2913.71);*

(or)

(6) less than \$1,000;

(or)

(7) \$1,000 or more and less than \$7,500;

(or)

(8) \$7,500 or more and less than \$150,000;

(or)

(9) \$150,000 or more;

COMMENT

It is not necessary for the jury to return an exact value. It is sufficient if the finding is expressed as a monetary range required to determine the degree of offense. R.C. 2913.61.

(or)

(10) special purpose article(s);

(or)

(11) bulk merchandise container(s).

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USER'S GUIDE

to

Ohio Jury Instructions

[Rev. 3/12/22]

- **What is *Ohio Jury Instructions*?** *Ohio Jury Instructions* (“*OJI*”) is a collection of non-binding model instructions prepared by the Ohio Judicial Conference’s Ohio Jury Instructions Committee. Although often cited with approval by courts, including the Supreme Court of Ohio, *OJI* is not considered binding. The template instructions set forth in *OJI* are primarily intended for use by judges in instructing juries in the state and federal courts of Ohio when Ohio law is involved in a case. Practitioners can utilize *OJI* to submit requested jury charges.

- **Mission Statement.** *OJI*’s mission is to provide neutral template instructions that are understandable and provide jurors with the law and procedure necessary to enable them to reach fair and just verdicts.

- **Organization.** Published in both electronic and print form, *OJI* is divided into two volumes, one for civil and one for criminal. The civil volume consists of one book, while the criminal volume consists of two books. Each volume is further divided into *titles*, with each title indicating a broad category of related content. Each title is then separated into *chapters* that focus on a more narrow set of related content. Each chapter contains individually numbered *instructions* that set forth specific jury charges on a particular topic.

- **Examples of Titles:**

Title 3: General Civil Trial Instructions

Title 4: Civil Subject Matter Instructions: Tort-Related

Title 5: Civil Subject Matter Instructions: Contract-Related

- **Examples of Chapters within Title 4:**

Chapter CV 401 Negligence

Chapter CV 403 Comparative Negligence

[chapter designations continue until]

Chapter CV 453 Tortious Interference with Economic Relations

- **Examples of Instructions within Chapter CV 453:**

CV 453.01 Tortious interference with business relations

CV 453.03 Tortious interference with contractual relations

CV 453.05 Tortious interference with employment relations

- **Finding an instruction by topic.** Each volume of *OJI* contains a table of contents prepared by the Ohio Jury Instructions Committee and an index prepared by the print publisher. In the criminal volume, instructions are grouped by topics that generally

mirror the criminal statutory scheme set forth in the Ohio Revised Code. In the civil volume, instructions are grouped by topics into titles that are generally related by legal concepts or themes. For example, the chapters in Title 5 all deal with contract-related topics. Within titles, narrower topics generally follow broader topics in the same related area. For example, "Contracts" is the first chapter in Title 5 and is followed by such chapters as the "Uniform Commercial Code" and the "Consumer Sales Practices Act."

• **Headings.** Each numbered instruction in OJI has a descriptive title. Within that titled instruction, there are often multiple instructions, or sections, many of which include descriptive titles, as well as possible sub-sections with their own headings.

• **Example of title of civil instruction:**

CV 417.01 Standard of care: physician/surgeon

• **Example of title of civil section heading:**

CV 417.01 Standard of care: physician/surgeon, § 1. INTRODUCTION.

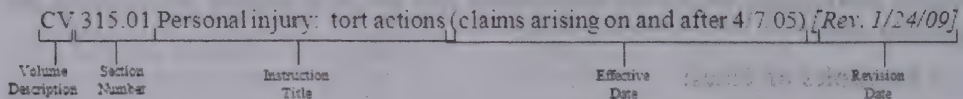
• **Example of title of criminal instruction:**

CR 521.31 Obstructing official business R.C. 2921.31

• **Example of title of criminal section heading:**

CR 521.31 Obstructing official business R.C. 2921.31, § 2. PRIVILEGE.

• **Instruction heading diagram.** The descriptive title of each instruction is comprised of several important pieces of information. A diagram of an example instruction heading and descriptions of the head pieces includes:



• **Volume description.** Two letters will indicate whether an instruction is included in the civil (CV) or criminal (CR) volume of *OJI*.

• **Section number.** The first three digits of the section number indicate the chapter in which the instruction is located. The digits following the decimal point indicate where in the chapter the instruction is located. Criminal instructions generally mirror the criminal statutory scheme set forth in the Ohio Revised Code.

• **Instruction title.** Each numbered instruction in *OJI* has a descriptive title.

• **Effective date.** Users should note that there are often multiple versions of an instruction corresponding to select dates of applicability. These multiple versions are arranged chronologically by *effective date*. For example, amendments to or judicial interpretation of a criminal statute may necessitate different versions of an instruction explaining different elements or definitions. The *effective date* of an instruction is indicated in a parenthetical accompanying its title.

- When a **significant substantive change** has occurred, such as a change in the elements of a crime, there will be a separate instruction covering the time period involved, which will result in *multiple instructions* separated by their distinct effective dates.

- **Example:**

CR 503.02 Murder R.C. 2903.02 (offenses committed on and after 9/6/96 but before 6/30/98) and CR 503.02 Murder R.C. 2903.02 (offenses committed on and after 6/30/98) [Rev. 2/24/07]

- When a **minor change** has occurred, the change will be reflected *within* the text of *one* instruction, with a parenthetical indication of the effective date of the change.

- **Example:**

CV 451.19 Affirmative defenses, § 4. UNFORSEEABLE USE OF PRODUCT (Common law claims only arising before 4/7/05).

- **Revision date.** More recent instruction titles are followed by an italicized and bracketed indication of when the Ohio Jury Instructions Committee last drafted or revised that instruction. Users are cautioned that instructions can quickly become outdated due to changes in statutes and case law. Additional research to validate whether any given instruction is up to date is recommended.

- **Example:**

CV 453.01 Tortious interference with business relations [Rev. 2/23/08]

- **Use of (ADDITIONAL).** Section headings may be accompanied by the parenthetical characterization “ADDITIONAL.” The use of “(ADDITIONAL)” means that the trial judge *should* read and submit the instruction to the jury only when it is applicable or required based on the specific circumstances or facts of the case involved.

- **Example:**

CV 517.07 Collateral in possession of secured party R.C. 1309.27 [UCC § 9-207] [Rev. 2/24/07], § 3. FUNGIBLE (ADDITIONAL).

- **Use of (OPTIONAL).** Section headings may be accompanied by the parenthetical characterization “OPTIONAL.” “OPTIONAL” instructions may be used to further define or amplify an existing instruction. The use of “(OPTIONAL)” means that the trial judge *may* read and submit the instruction to the jury when it is applicable based on the specific circumstances or facts of the case involved. Inclusion of an “OPTIONAL” instruction is at the discretion of the trial judge.

- **Example:**

CV 417.01 Standards of care: physician/surgeon [Rev. 3/28/09], § 7. FREEDOM FROM NEGLIGENCE (OPTIONAL).

- **Sections within instruction.** Each instruction in OJI is usually broken into numbered sections, which can be further broken into lettered subsections. Often this will track statutory numbering and lettering. For example, subsections in a criminal instruction may include (A), (B), and (D)—skipping (C) if the statutory (C) does not constitute an offense. Definitional sections always follow the order in which the terms were first used in the body of the preceding instruction.
- **Need to fill in blanks.** Within a section of an instruction, there may be places where a blank exists. Users must fill in the blanks with the applicable information arising from the circumstances and facts of the case involved.

- **Example:**

CV 425.03 Negligence in proprietary functions, § 1(B). IDENTIFYING A PROPRIETARY FUNCTION. The decision whether a particular activity relates to a proprietary function is a matter of law for the court. I instruct you that _____ is a proprietary function (and that _____ is not a proprietary function).

- **Example of actual instruction given to jury:**

The decision whether a particular activity relates to a proprietary function is a matter of law for the court. I instruct you that selling used computers is a proprietary function and that awarding contracts for the construction of roads is not a proprietary function.

- **Parenthetical alternatives.** Within a section of an instruction, there may be two or more possible choices presented as alternative content contained within separate parentheses. Sometimes the alternatives indicate possible choices that will have to be made so that the instruction matches the circumstances and facts of the case involved. Inapplicable choices should never be presented to the jury. At other times, the alternatives will indicate possible choices between content that mean the same thing; the trial judge should select the most clear or most easily understood choice. In written instructions distributed to a jury, the trial judge should delete the use of parentheses and instead simply include only the applicable word or words selected.

- **Example:**

CV 401.07 Foreseeability [Rev. 1/10/04], § 1. GENERAL. In deciding whether (reasonable) (ordinary) care was used, you will consider whether (the defendant) (either party) in question should have foreseen under the circumstances that the likely result of an act or failure to act would cause some (injury) (damage).

- **Example of actual instruction given to jury:**

In deciding whether reasonable care was used, you will consider whether the defendant in question should have foreseen under the circumstances that the likely result of an act or failure to act would cause some injury.

- **Parenthetical language.** Within a suggested instruction, there may be language contained in parentheses that is not an alternative content choice, but is instead content that the trial judge should read and submit to the jury only when it is applicable or required based on the specific circumstances or facts of the case involved. This parenthetical language serves the same function as model instructions contained in sections headings containing the use of “(ADDITIONAL)” as explained above. Because the parenthetical language is often less than a sentence, it has not received its own section heading.

- **Example:** If you find that the state proved beyond a reasonable doubt all the essential elements of the offense of _____, your verdict must be guilty (as to one or more of the defendants, according to your findings).

- **Multiple parentheticals.** Parentheses usually indicate two or more possible choices presented as alternative content. Sometimes, however, multiple parentheticals indicate two or more units of thought that, by virtue of necessary sentence structure, fall as back-to-back parentheticals, not all of which are alternatives to one another. The last

parenthetical(s) may require another selection between distinct alternatives or, as shown below, it may require insertion of a distinct unit of thought.

• **Example:**

The defendant caused the death of (*insert name of victim*) as a proximate result of (committing) (attempting to commit) (*insert name of offense of violence*).

• **Italics.** Similar to the use of blanks, when content is placed in italics, a user must supply the specific necessary content.

• **Example:**

CV 453.07 Tortious Interference with expectancy of inheritance [Rev. 12/5/09], § 1. GENERAL. The plaintiff claims that the defendant intentionally interfered with his/her/its expectancy of inheritance from (*insert name of decedent*) and that the plaintiff was damaged as a result.

• **Presentation of alternatives.** Depending upon the circumstances and facts of the case involved, there is often a need to present alternative instructions to a jury. Alternative instructions are separated by “(or).” When the trial judge should select only one of a number of possible alternative instructions, italicized language preceding the list of choices directs the judge to “(*Use appropriate alternative*).” When there is a possible need to read and submit more than one alternative to the jury, italicized language preceding the list of choices directs the trial judge to “(*Use appropriate alternative[s]*).”

• **Example:**

CV 433.01 Right of publicity in individual's persona R.C. Chapter 2741 (claims arising on and after 11/22/99) [Rev. 5/8/10], § 4. COMMERCIAL PURPOSE. “Commercial purpose” means the use of or reference to an aspect of an individual's (name) (voice) (signature) (photograph) (image) (likeness) (distinctive appearance)

(*Use appropriate alternative[s]*)

- (A) on or in connection with a place, product, merchandise, goods, services, or other commercial activities;

(*or*)

- (B) for advertising or soliciting the purchase of products, merchandise, goods, services, or other commercial activities;

(*or*)

- (C) for the purpose of promoting travel to a place;

(*or*)

- (D) for the purpose of fundraising.

• **Example of actual instruction given to jury:**

“Commercial purpose” means the use of or reference to an aspect of an individual's distinctive appearance for advertising or soliciting the purchase of products, merchandise, goods, services, or other commercial activities.

• **Comments.** No material identified as “COMMENT” text should be read or submitted to the jury. *OJI* frequently includes material that is set out under the heading of a

“COMMENT” and encapsulated in a box, italicized, or appears in smaller font and indented. This commentary generally includes references to statutory and case law authority that provide the source for the model instruction given. Other content included as commentary can include explanations by the Ohio Jury Instructions Committee for a model instruction, suggestions for the trial judge, and indications of what by consensus the Committee believes in regard to an instruction. Comments may also contain material explaining the applicability or limitations of an instruction. The research reflected in a comment should not be considered exhaustive and cannot be relied upon as the most current authority on the issue dealt with by the instruction.

- **Use of “Drawn from.”** “Drawn from” is used when the text of the instruction follows the language in the cited authority but not verbatim.

- **Example:**

CV 617.03 Invitee; business visitor [Rev. 10/9/09], § 4. OPEN AND OBVIOUS.

COMMENT

Drawn from *Armstrong v. Best Buy Co. Inc.*, 99 Ohio St.3d 79, 2003-Ohio-2573; *Simmers v. Bentley Contr. Co.*, 64 Ohio St.3d 642, 1992-Ohio-42. The “open and obvious” doctrine remains a viable part of Ohio law. The split among the appellate courts is effectively reconciled by the “attendant circumstances” exception to the doctrine. Both instructions (“open and obvious” and “attendant circumstances”) should be given whenever the trial court has decided to instruct on “open and obvious.”

In *Robinson v. Bates*, 112 Ohio St.3d 17, 2006-Ohio-6362, the Court held that, although the open and obvious doctrine can excuse a defendant’s breach of a common-law duty of care, it does not override statutory duties because the violation of a statutory duty constitutes negligence per se. In *Lang v. Holly Hill Motel, Inc.*, 122 Ohio St.3d 120, 2009-Ohio-2495, the Court held that the open and obvious doctrine may be asserted as a defense to a claim of liability arising from a violation of the Ohio Basic Building Code because administrative rule violations do not constitute negligence per se.

- **Definitions.** When an instruction uses a term or terms that need to be defined for a jury, a subsequent numbered section or subsection in that instruction provides either the definition or a reference to elsewhere in *OJI* or in the Ohio Revised Code where the definition to be read and submitted to the jury exists.

- **Examples:**

CV 453.07 Tortious interference with expectancy of inheritance, § 6. UNDUE INFLUENCE. “Undue influence” means that which overpowers the will of a person and induces him/her into making a distribution of his/her property that he/she would not have made if left to act freely and according to his/her own plans and desires.

CV 453.07 Tortious interference with expectancy of inheritance, § 7. REASONABLY CERTAIN. *OJI*-CV 315.01 (offenses committed on and after 4/7/05) § 10.

- **Verdict forms.** *OJI* includes some suggested templates for verdict forms, often set forth at the end of a particular instruction.
- **Interrogatories.** *OJI* sometimes includes model interrogatories. Generally, these are provided when interrogatories are required by statute or case law. Depending upon the facts of the case and the number and identity of the parties, interrogatories may need to be modified, and judges should thoroughly examine and, if necessary, edit the interrogatories before submitting them to a jury.
- **Language and style.** When pronoun usage depends upon the gender-specific (or neutral) selection of content, *OJI* indicates the possible choices by using “he/she/it” or “his/her/its.” In selecting the applicable pronoun, the trial judge may elect to modify proposed choices to use gender-neutral language as appropriate. When the appropriate form of an article depends on the selection of content, *OJI* indicates the possible options by using “a/an.” The trial judge should select the applicable article and not provide the jury with both article options.
- **Other explanatory material.** Primarily intended for new judges and practitioners, *OJI* includes several sections discussing how to conduct a jury trial, including checklists and sample instructions. This material is set forth at Title 1 and Title 2 of both volumes.
- **Citation within *OJI*.** *OJI* adheres to the *Ohio Manual of Citations*. Where the *Manual* does not provide guidance on citation form, *OJI* then follows *The Bluebook: A Uniform System of Citation*.
- **Citation of *OJI*.** In the state courts of Ohio, users should follow the *Ohio Manual of Citations* when citing *OJI*.
 - **Example:**

Ohio Jury Instructions, CV Section 537.17 (Rev. Dec. 10, 2011)
- **Contributing suggestions to *OJI*.** The Committee welcomes input from both bench and bar. Proposed instructions or communications raising specific concerns that are supported by existing law or its interpretation may be submitted in writing through the Ohio Judicial Conference or members of the Committee.

OHIO JURY INSTRUCTIONS

*A collection of STANDARD JURY
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cases prepared by the Jury Instructions
Committee of the Ohio Judicial
Conference.*

CRIMINAL INSTRUCTIONS
SPECIAL TOPICS (cont.)
TRAFFIC

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: [REDACTED]

Case No. [REDACTED]

MEMORANDUM OF DECISION

On [REDACTED], the Court held a hearing on the motion of [REDACTED] for summary judgment.

The Court has reviewed the papers submitted by the parties and the testimony at the hearing.

The Court finds that [REDACTED] has established that [REDACTED] is entitled to summary judgment.

Accordingly, the Court grants summary judgment to [REDACTED].

The Court reserves judgment on the remaining issues.

IT IS SO ORDERED.

Signed: [REDACTED]

Date: [REDACTED]

By: [REDACTED]

For the Court: [REDACTED]

By: [REDACTED]

For the Court: [REDACTED]

By: [REDACTED]

For the Court: [REDACTED]

By: [REDACTED]

For the Court: [REDACTED]

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THE BEGINNING OF THE CHAPTER

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GENERAL INDEX

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the statistical analysis performed.

3. The third part of the document presents the results of the study, showing the trends and patterns observed in the data. It includes several tables and figures to illustrate the findings.

4. The fourth part of the document discusses the implications of the results and the potential applications of the findings. It also addresses the limitations of the study and suggests areas for future research.

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1.53	OJI-CV 101.53
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1.61	OJI-CV 101.61
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1.65	OJI-CV 101.65
1.67	OJI-CV 101.67
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23.90	OJI-CV 315.47
23.91	OJI-CV 315.49
23.92	OJI-CV 315.51
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225.27	OJI-CV 411.43
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315.04	OJI-CV 509.07
317.01	OJI-CV 701.01
317.03	OJI-CV 701.03

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317.07	OJI-CV 701.07
317.09	OJI-CV 701.09
317.11	OJI-CV 701.11
317.13	OJI-CV 701.13
317.15	OJI-CV 701.15
319.01	OJI-CV 415.01
319.03	OJI-CV 415.03
319.05	OJI-CV 415.05
319.07	OJI-CV 415.07
319.09	OJI-CV 415.09
319.11	OJI-CV 415.11
323.01	OJI-CV 709.01
323.03	OJI-CV 709.03
323.05	OJI-CV 709.05
323.07	OJI-CV 709.07
323.09	OJI-CV 709.09
323.11	OJI-CV 709.11
323.13	OJI-CV 709.13
323.15	OJI-CV 709.15
323.17	OJI-CV 709.17
323.19	OJI-CV 709.19
323.21	OJI-CV 709.21
323.23	OJI-CV 709.23
323.25	OJI-CV 709.25
323.27	OJI-CV 709.27
323.29	OJI-CV 709.29
323.31	OJI-CV 709.31
323.33	OJI-CV 709.33
323.35	OJI-CV 709.35
323.37	OJI-CV 709.37
323.39	OJI-CV 709.39
323.41	OJI-CV 709.41
323.43	OJI-CV 709.43
323.45	OJI-CV 709.45
323.47	OJI-CV 709.47
323.49	OJI-CV 709.49
323.51	OJI-CV 709.51
323.53	OJI-CV 709.53
323.55	OJI-CV 709.55
323.57	OJI-CV 709.57
323.59	OJI-CV 709.59
323.61	OJI-CV 709.61
323.63	OJI-CV 709.63

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323.65	OJI-CV 709.65
325.01	OJI-CV 413.01
325.03	OJI-CV 413.03
325.05	OJI-CV 413.05
325.07	OJI-CV 413.07
325.09	OJI-CV 413.09
325.11	OJI-CV 413.11
327.01	OJI-CV 613.01
327.03	OJI-CV 613.03
327.05	OJI-CV 613.05
327.07	OJI-CV 613.07
327.11	OJI-CV 613.09
327.13	OJI-CV 613.11
327.15	OJI-CV 613.13
327.17	OJI-CV 613.15
327.19	OJI-CV 613.17
327.21	OJI-CV 613.19
327.23	OJI-CV 613.21
327.25	OJI-CV 613.23
327.27	OJI-CV 613.25
327.29	OJI-CV 613.27
327.31	OJI-CV 613.29
327.33	OJI-CV 613.31
327.35	OJI-CV 613.33
329.01	OJI-CV 529.01
330.01	OJI-CV 439.01
330.03	OJI-CV 439.03
330.05	OJI-CV 439.05
330.07	OJI-CV 439.07
330.09	OJI-CV 439.09
331.01	OJI-CV 417.01
331.03	OJI-CV 417.03
331.05	OJI-CV 417.05
331.07	OJI-CV 417.07
331.09	OJI-CV 417.09
331.11	OJI-CV 417.11
331.13	OJI-CV 417.13
331.15	OJI-CV 417.15
331.17	OJI-CV 417.17
331.19	OJI-CV 417.19
333.01	OJI-CV 421.01
333.03	OJI-CV 421.03
333.05	OJI-CV 421.05
333.07	REMOVED

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345.01	OJI-CV 621.01
345.03	OJI-CV 621.03
345.05	OJI-CV 621.05
345.07	OJI-CV 621.07
345.09	OJI-CV 621.09
345.11	OJI-CV 621.11
345.13	OJI-CV 621.13
348.01	OJI-CV 705.01
348.03(A)	OJI-CV 705.03
348.03(B)	OJI-CV 705.05
348.07	OJI-CV 705.07
348.09	OJI-CV 705.09
348.11	OJI-CV 705.11
348.13	OJI-CV 705.13
348.15	OJI-CV 705.15
349.01	OJI-CV 433.01
349.03	OJI-CV 433.03
349.05	OJI-CV 433.05
349.07	OJI-CV 433.07
349.09	OJI-CV 433.09
349.11	OJI-CV 433.11
349.13	OJI-CV 433.13
351.01	OJI-CV 451.01
351.03	OJI-CV 451.03
351.05	OJI-CV 451.05
351.07	OJI-CV 451.07
351.09	OJI-CV 451.09
351.11	OJI-CV 451.11
351.13	OJI-CV 451.13
351.15	OJI-CV 451.15
351.17	OJI-CV 451.17
351.19	OJI-CV 451.19
351.21	OJI-CV 451.21
351.23	OJI-CV 451.23
354.01	OJI-CV 601.01
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354.05	OJI-CV 601.05
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354.09	OJI-CV 601.09
355.01	OJI-CV 443.01
356.01	OJI-CV 445.01
356.03	OJI-CV 445.03
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356.15	OJI-CV 445.15
356.17	OJI-CV 445.17
356.19	OJI-CV 445.19
356.21	OJI-CV 445.21
356.23	OJI-CV 445.23
356.25	OJI-CV 445.25
359.01	OJI-CV 513.01
359.03	OJI-CV 513.03
359.05	OJI-CV 513.05
359.07	OJI-CV 513.07
359.09	OJI-CV 513.09
362.01	OJI-CV 505.01
362.03	OJI-CV 505.03
362.05	OJI-CV 505.05
362.07	OJI-CV 505.07
362.09	OJI-CV 505.09
362.11	OJI-CV 505.11
362.13	OJI-CV 505.13
362.15	OJI-CV 505.15
362.17	OJI-CV 505.17
362.19	OJI-CV 505.19
362.21	OJI-CV 505.21
362.23	OJI-CV 505.23
362.25	OJI-CV 505.25
362.27	OJI-CV 505.27
362.29	OJI-CV 505.29
362.31	OJI-CV 505.31
362.33	OJI-CV 505.33
362.35	OJI-CV 505.35
362.37	OJI-CV 505.37
362.39	OJI-CV 505.39
362.41	OJI-CV 505.41
362.43	OJI-CV 505.43
362.45	OJI-CV 505.45
362.47	OJI-CV 505.47
362.49	OJI-CV 505.49
362.51	OJI-CV 505.51
362.53	OJI-CV 505.53
363.01	OJI-CV 633.01
363.03	OJI-CV 633.03
363.05	OJI-CV 633.05

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363.07	OJI-CV 633.07
363.09	OJI-CV 633.09
363.13	OJI-CV 633.11
365.01	OJI-CV 427.01
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365.05	OJI-CV 427.05
365.07	OJI-CV 427.07
365.09	OJI-CV 427.09
365.11	OJI-CV 427.11
365.13	OJI-CV 427.13
365.15	OJI-CV 427.15
365.17	OJI-CV 427.17
365.19	OJI-CV 427.19
369.01	OJI-CV 517.01
369.03	OJI-CV 517.03
369.05	OJI-CV 517.05
369.07	OJI-CV 517.07
369.09	OJI-CV 517.09
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369.13	OJI-CV 517.13
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CRIMINAL INSTRUCTIONS CORRELATION TABLE

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1.03	OJI-CR 101.03
1.05	OJI-CR 101.05
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1.09	OJI-CR 101.09
1.11	OJI-CR 101.11
1.13	OJI-CR 101.13
1.15	OJI-CR 101.15
1.17	OJI-CR 101.17
1.19	OJI-CR 101.19
1.21	OJI-CR 101.21
1.23	OJI-CR 101.23
1.25	OJI-CR 101.25
1.27	OJI-CR 101.27
1.29	OJI-CR 101.29
1.31	OJI-CR 101.31
1.33	OJI-CR 101.33
1.35	OJI-CR 101.35
1.37	OJI-CR 101.37
1.39	OJI-CR 101.39
1.41	OJI-CR 101.41
1.43	OJI-CR 101.43
1.45	OJI-CR 101.45
1.47	OJI-CR 101.47
1.49	OJI-CR 101.49
1.51	OJI-CR 101.51
1.53	OJI-CR 101.53
1.55	OJI-CR 101.55
1.57	OJI-CR 101.57
1.59	OJI-CR 101.59
1.61	OJI-CR 101.61
1.63	OJI-CR 101.63
1.65	OJI-CR 101.65
1.67	OJI-CR 101.67
1.69	OJI-CR 101.69
1.71	OJI-CR 101.71
1.73	OJI-CR 101.73
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1.79	OJI-CR 101.79
1.81	OJI-CR 101.81
1.83	OJI-CR 101.83

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1.85	OJI-CR 101.85
1.87	OJI-CR 101.87
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401.02	OJI-CR 301.03
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401.04	OJI-CR 301.07
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402.11	OJI-CR 401.03
402.12	OJI-CR 401.05
402.20	OJI-CR 401.07
402.21	OJI-CR 401.09
402.25	OJI-CR 401.11
402.30	OJI-CR 401.13
402.50	OJI-CR 401.15
402.51	OJI-CR 401.17
402.52	OJI-CR 401.19
402.53	OJI-CR 401.21
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402.61	OJI-CR 401.25
402.99	OJI-CR 401.27
403.01	OJI-CR 405.01
403.03	OJI-CR 405.03
403.10	OJI-CR 405.05
403.50	OJI-CR 405.07
403.55	OJI-CR 405.09
405.01	OJI-CR 409.01
405.10	OJI-CR 409.03
405.20	OJI-CR 409.05
405.21	OJI-CR 409.07
405.22	OJI-CR 409.11
405.25	OJI-CR 409.13
405.40	OJI-CR 409.15
405.41	OJI-CR 409.17
405.50	OJI-CR 409.19
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405.52	OJI-CR 409.23
405.60	OJI-CR 409.25
405.63	OJI-CR 409.27
405.64	OJI-CR 409.29
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407.10	OJI-CR 413.07
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409.05	OJI-CR 417.07
409.07	OJI-CR 417.09
409.11	OJI-CR 417.11
409.13	OJI-CR 417.13
409.15	OJI-CR 417.15
409.21	OJI-CR 417.17
409.31	OJI-CR 417.19
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409.55	OJI-CR 417.23
409.56	OJI-CR 417.25
409.57	OJI-CR 417.27
409.60	OJI-CR 417.29
409.65	OJI-CR 417.31
409.67	OJI-CR 417.33
411.01	OJI-CR 421.01
411.03	OJI-CR 421.03
411.05	OJI-CR 421.05
411.07	OJI-CR 421.07
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411.10 (offenses committed on and after 10/27/00)	OJI-CR 421.09 (offenses committed on and after 10/27/00)
411.11 (offenses committed before 10/27/00)	OJI-CR 421.11 (offenses committed before 10/27/00)
411.11 (offenses committed on and after 10/27/00)	OJI-CR 421.11 (offenses committed on and after 10/27/00)
411.19	OJI-CR 421.13
411.20	OJI-CR 421.15
411.25	OJI-CR 421.17
411.31	OJI-CR 421.19
411.33	OJI-CR 421.21
411.35	OJI-CR 421.23
411.51	OJI-CR 421.25
411.53	OJI-CR 421.27
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413.01	OJI-CR 425.01
413.05	OJI-CR 425.03
413.10	OJI-CR 425.05
413.11	OJI-CR 425.07
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413.38	OJI-CR 425.19
413.39	OJI-CR 425.21
413.40	OJI-CR 425.23
413.43	OJI-CR 425.25
413.45	OJI-CR 425.27
413.47	OJI-CR 425.29
413.49	OJI-CR 425.31
413.50	OJI-CR 425.33
413.60	OJI-CR 425.35
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413.80	OJI-CR 425.39
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415.05	OJI-CR 429.05
415.10	OJI-CR 429.07
415.50	OJI-CR 429.09
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503.02 (offenses committed on and after 6/30/98)	OJI-CR 503.02 (offenses committed on and after 6/30/98)
503.03 (offenses committed on and after 9/6/96)	OJI-CR 503.03 (offenses committed on and after 9/6/96)
503.04 (offenses committed on and after 9/6/96 but before 3/23/00)	OJI-CR 503.04 (offenses committed on and after 9/6/96 but before 3/23/00)
503.04 (offenses committed on and after 3/23/00)	OJI-CR 503.04 (offenses committed on and after 3/23/00)
503.041	OJI-CR 503.041
503.05	OJI-CR 503.05
503.06 (offenses committed before 3/23/00)	OJI-CR 503.06 (offenses committed before 3/23/00)
503.06 (offenses committed on and after 3/23/00)	OJI-CR 503.06 (offenses committed on and after 3/23/00)
503.07 (offenses committed on and after 9/6/96) [section repealed 3/23/00]	OJI-CR 503.07 (offenses committed on and after 9/6/96)

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503.08 (offenses committed on and after 3/23/00)	OJI-CR 503.08 (offenses committed on and after 3/23/00)
503.11(A) (offenses committed on and after 9/6/96) [Rev. 2-24-07]	OJI-CR 503.11(A) (offenses committed on and after 9/6/96)
503.11(B) (offenses committed on and after 3/23/00) [Rev. 1-20-07]	OJI-CR 503.11(B) (offenses committed on and after 3/23/00)
503.12	OJI-CR 503.12
503.13	OJI-CR 503.13
503.14 (offenses committed on and after 9/6/96)	OJI-CR 503.14 (offenses committed on and after 9/6/96)
503.15 (offenses committed on and after 8/25/99)	OJI-CR 503.15 (offenses committed on and after 8/25/99)
503.16	OJI-CR 503.16
503.21 (offenses committed on and after 9/6/96)	OJI-CR 503.21 (offenses committed on and after 9/6/96)
503.22 (offenses committed on and after 9/6/96)	OJI-CR 503.22 (offenses committed on and after 9/6/96)
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503.34	OJI-CR 503.34
503.35	OJI-CR 503.35
503.211 (offenses committed before 3/10/00)	OJI-CR 503.211 (offenses committed before 3/10/00)
503.211 (offenses committed on and after 3/10/00)	OJI-CR 503.211 (offenses committed on and after 3/10/00 but before 1/1/08) OJI-CR 503.211 (offenses committed on and after 1/1/08)
503.214	OJI-CR 503.214
505.01(A) (offenses committed before 7/1/96)	OJI-CR 505.01(A) (offenses committed before 7/1/96)
505.01(A) (offenses committed on and after 7/1/96) [Rev. 1-20-07]	OJI-CR 505.01(A) (offenses committed on and after 7/1/96)
505.01(B) (offenses committed before 7/1/96)	OJI-CR 505.01(B) (offenses committed before 7/1/96)
505.01(B) (offenses committed on and after 7/1/96)	OJI-CR 505.01(B) (offenses committed on and after 7/1/96)
505.02 (offenses committed before 7/1/96)	OJI-CR 505.02 (offenses committed before 7/1/96)
505.02 (offenses committed on and after 7/1/96)	OJI-CR 505.02 (offenses committed on and after 7/1/96)
505.03	OJI-CR 505.03
505.04 (offenses committed before 7/1/96)	OJI-CR 505.04 (offenses committed before 7/1/96)
505.05 (offenses committed before 7/1/96)	OJI-CR 505.05
505.05	OJI-CR 505.05

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505.11 (offenses committed on and after 7/1/96)	OJI-CR 505.11 (offenses committed on and after 7/1/96)
505.12	OJI-CR 505.12
505.22 (offenses committed before 7/1/96)	OJI-CR 505.22 (offenses committed before 7/1/96)
505.22 (offenses committed on and after 7/1/96)	OJI-CR 505.22 (offenses committed on and after 7/1/96)
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507.02(A)(1) (offenses committed on and after 7/1/96 but before 3/10/98)	OJI-CR 507.02(A)(1) (offenses committed on and after 7/1/96 but before 3/10/98)
507.02(A)(1) (offenses committed on and after 3/10/98)	OJI-CR 507.02(A)(1) (offenses committed on and after 3/10/98)
507.02(A)(2) (offenses committed before 7/1/96)	OJI-CR 507.02(A)(2) (offenses committed before 7/1/96)
507.02(A)(2) (offenses committed on and after 7/1/96)	OJI-CR 507.02(A)(2) (offenses committed on and after 7/1/96)
507.03 (offenses committed before 7/1/96)	OJI-CR 507.03 (offenses committed before 7/1/96)
507.03 (offenses committed on and after 7/1/96)	OJI-CR 507.03 (offenses committed on and after 7/1/96)
507.04 (offenses committed before 7/1/96)	OJI-CR 507.04 (offenses committed before 7/1/96)
507.04 (offenses committed on and after 7/1/96)	OJI-CR 507.04 (offenses committed on and after 7/1/96)
507.05 (offenses committed before 7/1/96)	OJI-CR 507.05 (offenses committed before 7/1/96)
507.05 (offenses committed on and after 7/1/96 but before 3/10/98)	OJI-CR 507.05 (offenses committed on and after 7/1/96 but before 3/10/98)
507.05 (offenses committed on and after 3/10/98)	OJI-CR 507.05 (offenses committed on and after 3/10/98)
507.06 (offenses committed before 7/1/96)	OJI-CR 507.06 (offenses committed before 7/1/96)
507.06 (offenses committed on and after 7/1/96)	OJI-CR 507.06 (offenses committed on and after 7/1/96)
507.07 (offenses committed before 3/22/01)	OJI-CR 507.07 (offenses committed before 3/22/01)
507.07 (offenses committed on and after 3/22/01 but before 5/7/02)	OJI-CR 507.07 (offenses committed on and after 3/22/01 but before 5/7/02)
507.07 (offenses committed on and after 5/7/02 but before 7/31/03)	OJI-CR 507.07 (offenses committed on and after 5/7/02 but before 7/31/03)
507.07 (offenses committed on and after 7/31/03)	OJI-CR 507.07 (offenses committed on and after 7/31/03)

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507.08 (offenses committed on and after 1/30/98)	OJI-CR 507.08 (offenses committed on and after 1/30/98)
507.09 (offenses committed before 9/26/05)	OJI-CR 507.09 (offenses committed before 9/26/05)
507.09 (offenses committed on and after 9/26/05)	OJI-CR 507.09 (offenses committed on and after 9/26/05)
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507.12(A)(2) (offenses committed before 9/3/96)	OJI-CR 507.12(A)(2) (offenses committed before 9/3/96)
507.21 (offenses committed before 7/1/96)	OJI-CR 507.21 (offenses committed before 7/1/96)
507.21 (offenses committed on and after 7/1/96)	OJI-CR 507.21 (offenses committed on and after 7/1/96)
507.22 (offenses committed before 7/1/96)	OJI-CR 507.22 (offenses committed before 7/1/96)
507.22 (offenses committed on and after 7/1/96)	OJI-CR 507.22 (offenses committed on and after 7/1/96)
507.23	OJI-CR 507.23
507.24	OJI-CR 507.24
507.25 (offenses committed before 7/1/96)	OJI-CR 507.25 (offenses committed before 7/1/96)
507.31 (offenses committed before 7/1/96)	OJI-CR 507.31 (offenses committed before 7/1/96)
507.31 (offenses committed on and after 7/1/96 but before 1/1/04)	OJI-CR 507.31 (offenses committed on and after 7/1/96 but before 1/1/04)
507.31 (offenses committed on and after 1/1/04)	OJI-CR 507.31 (offenses committed on and after 1/1/04)
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507.33	OJI-CR 507.33
507.34(A) (offenses committed before 7/1/96)	OJI-CR 507.34(A) (offenses committed before 7/1/96)
507.34(A) (offenses committed on and after 7/1/96)	OJI-CR 507.34(A) (offenses committed on and after 7/1/96)
507.34(B) (offenses committed before 7/1/96)	OJI-CR 507.34(B) (offenses committed before 7/1/96)
507.34(B) (offenses committed on and after 7/1/96)	OJI-CR 507.34(B) (offenses committed on and after 7/1/96)
507.42 (offenses committed before 7/1/96)	OJI-CR 507.42 (offenses committed before 7/1/96)
507.42 (offenses committed on and after 7/1/96)	OJI-CR 507.42 (offenses committed on and after 7/1/96)
507.53(A)	OJI-CR 507.53(A)
507.53(B)	OJI-CR 507.53(B)
507.53(C)	OJI-CR 507.53(C)

Previous Instruction Number	New Edition Instruction Number
507.71 (offenses committed on and after 1/1/97)	OJI-CR 507.71 (offenses committed on and after 1/1/97)
507.72 (offenses committed on and after 1/1/97)	OJI-CR 507.72 (offenses committed on and after 1/1/97)
507.241 (offenses committed before 7/1/96)	OJI-CR 507.241 (offenses committed before 7/1/96)
507.241 (offenses committed on and after 7/1/96)	OJI-CR 507.241 (offenses committed on and after 7/1/96)
507.311	OJI-CR 507.311
507.321 (offenses committed before 7/1/96)	OJI-CR 507.321 (offenses committed before 7/1/96)
507.321 (offenses committed on and after 7/1/96)	OJI-CR 507.321 (offenses committed on and after 7/1/96)
507.322 (offenses committed before 7/1/96)	OJI-CR 507.322 (offenses committed before 7/1/96)
507.322 (offenses committed on and after 7/1/96)	OJI-CR 507.322 (offenses committed on and after 7/1/96)
507.323 (offenses committed before 7/1/96)	OJI-CR 507.323 (offenses committed before 7/1/96)
507.323 (offenses committed on and after 7/1/96)	OJI-CR 507.323 (offenses committed on and after 7/1/96)
509.02 (offenses committed before 7/1/96)	OJI-CR 509.02 (offenses committed before 7/1/96)
509.02 (offenses committed on and after 7/1/96)	OJI-CR 509.02 (offenses committed on and after 7/1/96)
509.03 (offenses committed before 7/1/96)	OJI-CR 509.03 (offenses committed before 7/1/96)
509.03 (offenses committed on and after 7/1/96)	OJI-CR 509.03 (offenses committed on and after 7/1/96)
509.04 (offenses committed before 7/1/96)	OJI-CR 509.04 (offenses committed before 7/1/96)
509.04 (offenses committed on and after 7/1/96)	OJI-CR 509.04 (offenses committed on and after 7/1/96)
509.05(A) (offenses committed before 7/1/96)	OJI-CR 509.05(A) (offenses committed before 7/1/96)
509.05(A) (offenses committed on and after 7/1/96 but before 9/30/98)	OJI-CR 509.05(A) (offenses committed on and after 7/1/96 but before 9/30/98)
509.05(A) (offenses committed on and after 9/30/98)	OJI-CR 509.05(A) (offenses committed on and after 9/30/98)
509.05(B) (offenses committed before 7/1/96)	OJI-CR 509.05(B) (offenses committed before 7/1/96)
509.05(B) (offenses committed on and after 7/1/96 but before 9/30/98)	OJI-CR 509.05(B) (offenses committed on and after 7/1/96 but before 9/30/98)
509.05(B) (offenses committed on and after 9/30/98)	OJI-CR 509.05(B) (offenses committed on and after 9/30/98)
509.05(C) (offenses committed before 7/1/96)	OJI-CR 509.05(C) (offenses committed before 7/1/96)

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509.05(C) (offenses committed on and after 7/1/96 but before 9/30/98)	OJI-CR 509.05(C) (offenses committed on and after 7/1/96 but before 9/30/98)
509.05(C) (offenses committed on and after 9/30/98)	OJI-CR 509.05(C) (offenses committed on and after 9/30/98)
509.05(D) (offenses committed before 7/1/96)	OJI-CR 509.05(D) (offenses committed before 7/1/96)
509.05(D) (offenses committed on and after 7/1/96)	OJI-CR 509.05(D) (offenses committed on and after 7/1/96)
509.06 (offenses committed before 7/1/96)	OJI-CR 509.06 (offenses committed before 7/1/96)
509.06 (offenses committed on and after 7/1/96)	OJI-CR 509.06 (offenses committed on and after 7/1/96)
509.07 (offenses committed before 7/1/96)	OJI-CR 509.07 (offenses committed before 7/1/96)
509.07 (offenses committed on and after 7/1/96)	OJI-CR 509.07 (offenses committed on and after 7/1/96)
509.08 (offenses committed before 7/1/96)	OJI-CR 509.08 (offenses committed before 7/1/96)
509.08 (offenses committed on or after 7/1/96)	OJI-CR 509.08 (offenses committed on or after 7/1/96)
509.22	OJI-CR 509.22
509.23	OJI-CR 509.23
509.24	OJI-CR 509.24
511.01(A)	OJI-CR 511.01(A)
511.01(B)	OJI-CR 511.01(B)
511.02	OJI-CR 511.02
511.11	OJI-CR 511.11
511.12	OJI-CR 511.12
511.13(A)	OJI-CR 511.13(A)
511.13(B)	OJI-CR 511.13(B)
511.21	OJI-CR 511.21
511.31	OJI-CR 511.31
511.32	OJI-CR 511.32
511.211	OJI-CR 511.211
513.02 (offenses committed before 7/1/96)	OJI-CR 513.02 (offenses committed before 7/1/96)
513.02 (offenses committed on and after 7/1/96)	OJI-CR 513.02 (offenses committed on and after 7/1/96)
513.03 (offenses committed before 7/1/96)	OJI-CR 513.03 (offenses committed before 7/1/96)
513.03 (offenses committed on and after 7/1/96)	OJI-CR 513.03 (offenses committed on and after 7/1/96)
513.04 (offenses committed before 7/1/96)	OJI-CR 513.04 (offenses committed before 7/1/96)
513.04 (offenses committed on and after 7/1/96)	OJI-CR 513.04 (offenses committed on and after 7/1/96)

Previous Instruction Number	New Edition Instruction Number
513.041 (offenses committed on and after 7/1/96)	OJI-CR 513.041 (offenses committed on and after 7/1/96)
513.11 (offenses committed before 7/1/96)	OJI-CR 513.11 (offenses committed before 7/1/96)
513.11 (offenses committed on and after 7/1/96)	OJI-CR 513.11 (offenses committed on and after 7/1/96)
513.21 (offenses committed before 7/1/96)	OJI-CR 513.21 (offenses committed before 7/1/96)
513.21 (offenses committed on and after 7/1/96)	OJI-CR 513.21 (offenses committed on and after 7/1/96)
513.31(A) (offenses committed before 7/1/96)	OJI-CR 513.31(A) (offenses committed before 7/1/96)
513.31(A) (offenses committed on and after 7/1/96)	OJI-CR 513.31(A)(offenses committed on and after 7/1/96)
513.31(B)	OJI-CR 513.31(B)
513.32 (offenses committed before 7/1/96)	OJI-CR 513.32 (offenses committed before 7/1/96)
513.32 (offenses committed on and after 7/1/96)	OJI-CR 513.32 (offenses committed on and after 7/1/96)
513.33 (offenses committed on and after 3/31/97)	OJI-CR 513.33 (offenses committed on and after 3/31/97)
513.34 (offenses committed on and after 3/31/97)	OJI-CR 513.34 (offenses committed on and after 3/31/97)
513.40	OJI-CR 513.40
513.41 (offenses committed before 7/1/96)	OJI-CR 513.41 (offenses committed before 7/1/96)
513.42 (offenses committed before 7/1/96)	OJI-CR 513.42 (offenses committed before 7/1/96)
513.42 (offenses committed on and after 7/1/96)	OJI-CR 513.42 (offenses committed on and after 7/1/96)
513.43 (offenses committed before 7/1/96)	OJI-CR 513.43 (offenses committed before 7/1/96)
513.43 (offenses committed on and after 7/1/96)	OJI-CR 513.43 (offenses committed on and after 7/1/96)
513.44	OJI-CR 513.44
513.45 (offenses committed before 7/1/96)	OJI-CR 513.45 (offenses committed before 7/1/96)
513.45 (offenses committed on and after 7/1/96)	OJI-CR 513.45 (offenses committed on and after 7/1/96)
513.46(A) (offenses committed before 10/29/95)	OJI-CR 513.46(A)(offenses committed before 10/29/95)
513.46(B) (offenses committed before 10/29/95)	OJI-CR 513.46(B) (offenses committed before 10/29/95)
513.46(B) (offenses committed on and after 9/26/96)	OJI-CR 513.46(B) (offenses committed on and after 9/26/96)
513.46(C) (offenses committed on and after 9/26/96)	OJI-CR 513.46(C) (offenses committed on and after 9/26/96)

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513.47 (offenses committed before 7/1/96)	OJI-CR 513.47 (offenses committed before 7/1/96)
513.47 (offenses committed on and after 7/1/96)	OJI-CR 513.47 (offenses committed on and after 7/1/96)
513.48 (offenses committed before 7/1/96)	OJI-CR 513.48 (offenses committed before 7/1/96)
513.48 (offenses committed on and after 7/1/96)	OJI-CR 513.48 (offenses committed on and after 7/1/96)
513.51 (offenses committed before 7/1/96)	OJI-CR 513.51 (offenses committed before 7/1/96)
513.51 (offenses committed on or after 7/1/96)	OJI-CR 513.51 (offenses committed on or after 7/1/96)
513.81 (offenses committed before 7/1/96)	OJI-CR 513.81 (offenses committed before 7/1/96)
513.401	OJI-CR 513.401
515.02	OJI-CR 515.02
515.03	OJI-CR 515.03
515.04	OJI-CR 515.04
515.05	OJI-CR 515.05
515.05(A) (offenses committed before 7/1/96)	OJI-CR 515.05(A) (offenses committed before 7/1/96)
515.05(B) (offenses committed on and after 7/1/96)	OJI-CR 515.05(B) (offenses committed on and after 7/1/96)
515.06 (offenses committed before 7/1/96)	OJI-CR 515.06 (offenses committed before 7/1/96)
515.07	OJI-CR 515.07
515.09	OJI-CR 515.09
515.10(A)	OJI-CR 515.10(A)
515.10(C)	OJI-CR 515.10(C)
515.11	OJI-CR 515.11
515.12 (offenses committed before 7/1/96)	OJI-CR 515.12 (offenses committed before 7/1/96)
517.01	OJI-CR 517.01
517.02(A)	OJI-CR 517.02(A)
517.02(B)	OJI-CR 517.02(B)
517.03	OJI-CR 517.03
517.11(A)	OJI-CR 517.11(A)
517.11(B)	OJI-CR 517.11(B)
517.12	OJI-CR 517.12
517.13	OJI-CR 517.13
517.21(A)	OJI-CR 517.21(A)
517.21(B)	OJI-CR 517.21(B)
517.31	OJI-CR 517.31
517.32	OJI-CR 517.32
517.40	OJI-CR 517.40

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517.41	OJI-CR 517.41
517.47	OJI-CR 517.47
519.01	OJI-CR 519.01
519.12(A)	OJI-CR 519.12(A)
519.12(B)	OJI-CR 519.12(B)
519.13(A)	OJI-CR 519.13(A)
519.13(B)	OJI-CR 519.13(B)
519.14	OJI-CR 519.14
519.21(A)	OJI-CR 519.21(A)
519.21(B)	OJI-CR 519.21(B)
519.22	OJI-CR 519.22
519.23(A)	OJI-CR 519.23(A)
519.23(B)	OJI-CR 519.23(B)
519.24	OJI-CR 519.24
519.24(A)(3) (offenses committed on and after 1/1/02)	OJI-CR 519.24(A)(3) (offenses committed on and after 1/1/02)
519.25	OJI-CR 519.25
519.27	OJI-CR 519.27
519.231	OJI-CR 519.231
521.02	OJI-CR 521.02
521.03 (offenses committed before 9/3/96)	OJI-CR 521.03 (offenses committed before 9/3/96)
521.03 (offenses committed on and after 9/3/96 and before 11/6/96)	OJI-CR 521.03 (offenses committed on and after 9/3/96 and before 11/6/96)
521.03 (offenses committed on and after 11/6/96)	OJI-CR 521.03 (offenses committed on and after 11/6/96)
521.04 (offenses committed before 9/3/96)	OJI-CR 521.04 (offenses committed before 9/3/96)
521.04 (offenses committed on and after 9/3/96)	OJI-CR 521.04 (offenses committed on and after 9/3/96)
521.05	OJI-CR 521.05
521.11	OJI-CR 521.11
521.12	OJI-CR 521.12
521.13 (offenses committed before 7/1/96)	OJI-CR 521.13 (offenses committed before 7/1/96)
521.13 (offenses committed on and after 7/1/96 and before 10/1/97)	OJI-CR 521.13 (offenses committed on and after 7/1/96 and before 10/1/97)
521.13 (offenses committed on and after 10/1/97)	OJI-CR 521.13 (offenses committed on and after 10/1/97)
521.14	OJI-CR 521.14
521.21	OJI-CR 521.21
521.22(A)	OJI-CR 521.22(A)
521.22(B)	OJI-CR 521.22(B)
521.22(C)	OJI-CR 521.22(C)

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521.22(D) (offenses committed before 3/18/97)	OJI-CR 521.22(D) (offenses committed before 3/18/97)
521.22(D) (offenses committed on and after 3/18/97)	OJI-CR 521.22(D) (offenses committed on and after 3/18/97)
521.22(E)	OJI-CR 521.22(E)
521.24	OJI-CR 521.24
521.31	OJI-CR 521.31
521.32 (offenses committed before 7/1/96)	OJI-CR 521.32 (offenses committed before 7/1/96)
521.32 (offenses committed on and after 7/1/96 and before 12/31/97)	OJI-CR 521.32 (offenses committed on and after 7/1/96 and before 12/31/97)
521.32 (offenses committed on and after 12/31/97)	OJI-CR 521.32 (offenses committed on and after 12/31/97)
521.321	OJI-CR 521.321
521.33 (offenses committed before 7/1/96)	OJI-CR 521.33 (offenses committed before 7/1/96)
521.33 (offenses committed on and after 7/1/96 but before 9/16/97)	OJI-CR 521.33 (offenses committed on and after 7/1/96 but before 9/16/97)
521.33 (offenses committed on and after 9/16/97)	OJI-CR 521.33 (offenses committed on and after 9/16/97)
521.34(A)(1)	OJI-CR 521.34(A)(1)
521.34(A)(2) (offense committed by sexually violent predator on and after 1/1/97)	OJI-CR 521.34(A)(2) (offense committed by sexually violent predator on and after 1/1/97)
521.35(A)	OJI-CR 521.35(A)
521.35(B)	OJI-CR 521.35(B)
521.36	OJI-CR 521.36
521.38	OJI-CR 521.38 (offenses committed on and after 6/11/97 but before 4/4/07) OJI-CR 521.38 (offenses committed on and after 4/4/07)
521.41	OJI-CR 521.41
521.42	OJI-CR 521.42
521.43(A)	OJI-CR 521.43(A)
521.43(B)	OJI-CR 521.43(B)
521.43(C)	OJI-CR 521.43(C)
521.44(A)	OJI-CR 521.44(A)
521.44(B)	OJI-CR 521.44(B)
521.44(C)	OJI-CR 521.44(C)
521.44(D)	OJI-CR 521.44(D)
521.44(E)	OJI-CR 521.44(E)
521.45	OJI-CR 521.45
521.51(B)	OJI-CR 521.51(B)
521.51(C)	OJI-CR 521.51(C)
521.51(D)	OJI-CR 521.51(D)
521.51(E)	OJI-CR 521.51(E)

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521.52	OJI-CR 521.52
521.331	OJI-CR 521.331
523.01 (offenses committed before 7/1/96)	OJI-CR 523.01 (offenses committed before 7/1/96)
523.01 (offenses committed on and after 7/1/96)	OJI-CR 523.01 (offenses committed on and after 7/1/96)
523.02 (offenses committed before 7/1/96)	OJI-CR 523.02 (offenses committed before 7/1/96)
523.02 (offenses committed on and after 7/1/96)	OJI-CR 523.02 (offenses committed on and after 7/1/96)
523.03 (offenses committed before 7/1/96)	OJI-CR 523.03 (offenses committed before 7/1/96)
523.03 (offenses committed on and after 7/1/96)	OJI-CR 523.03 (offenses committed on and after 7/1/96)
523.12	OJI-CR 523.12
523.13 (offenses committed before 7/1/96)	OJI-CR 523.13 (offenses committed before 7/1/96)
523.13(A) (offenses committed on and after 7/1/96)	OJI-CR 523.13(A) (offenses committed on and after 7/1/96)
523.13(B) (offenses committed on and after 7/1/96)	OJI-CR 523.13(B) (offenses committed on and after 7/1/96)
523.15	OJI-CR 523.15
523.16	OJI-CR 523.16
523.17 (offenses committed before 7/1/96)	OJI-CR 523.17 (offenses committed before 7/1/96)
523.17 (offenses committed on and after 7/1/96)	OJI-CR 523.17 (offenses committed on and after 7/1/96)
523.19	OJI-CR 523.19
523.20 (offenses committed before 7/1/96)	OJI-CR 523.20 (offenses committed before 7/1/96)
523.20 (offenses committed on and after 7/1/96)	OJI-CR 523.20 (offenses committed on and after 7/1/96)
523.21 (offenses committed before 11/9/95)	OJI-CR 523.21 (offenses committed before 11/9/95)
523.21 (offenses committed on and after 11/9/95 but before 7/1/96)	OJI-CR 523.21 (offenses committed on and after 11/9/95 but before 7/1/96)
523.21 (offenses committed on and after 7/1/96)	OJI-CR 523.21 (offenses committed on and after 7/1/96)
523.211(B)	OJI-CR 523.211(B)
523.24 (offenses committed before 7/1/96)	OJI-CR 523.24 (offenses committed before 7/1/96)
523.24 (offenses committed on and after 7/1/96)	OJI-CR 523.24 (offenses committed on and after 7/1/96)
523.32(A)(1)	OJI-CR 523.32(A)(1)
523.32(A)(2)	OJI-CR 523.32(A)(2)
523.32(A)(3)	OJI-CR 523.32(A)(3)

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523.42 (offenses committed on and after 1/1/99)	OJI-CR 523.42 (offenses committed on and after 1/1/99)
523.44	OJI-CR 523.44
523.121 (offenses committed before 7/1/96)	OJI-CR 523.121 (offenses committed before 7/1/96)
523.121 (offenses committed on and after 7/1/96)	OJI-CR 523.121 (offenses committed on and after 7/1/96)
523.122 (offenses committed before 7/1/96)	OJI-CR 523.122 (offenses committed before 7/1/96)
523.122 (offenses committed on and after 7/1/96 but before 3/18/97)	OJI-CR 523.122 (offenses committed on and after 7/1/96 but before 3/18/97)
523.122 (offenses committed on and after 3/18/97 but before 8/6/99)	OJI-CR 523.122 (offenses committed on and after 3/18/97 but before 8/6/99)
523.122 (offenses committed on and after 8/6/99)	OJI-CR 523.122 (offenses committed on and after 8/6/99)
523.123(A)	OJI-CR 523.123(A)
523.123(B)	OJI-CR 523.123(B)
523.131	OJI-CR 523.131
523.161 (offenses committed before 7/1/96)	OJI-CR 523.161 (offenses committed before 7/1/96)
523.161 (offenses committed on and after 7/1/96 but before 8/6/99)	OJI-CR 523.161 (offenses committed on and after 7/1/96 but before 8/6/99)
523.161 (offenses committed on and after 8/6/99)	OJI-CR 523.161 (offenses committed on and after 8/6/99)
525.02 (offenses committed before 7/1/96)	OJI-CR 525.02 (offenses committed before 7/1/96)
525.02 (offenses committed on and after 7/1/96 but before 7/22/98)	OJI-CR 525.02 (offenses committed on and after 7/1/96 but before 7/22/98)
525.02 (offenses committed on and after 7/22/98)	OJI-CR 525.02 (offenses committed on and after 7/22/98)
525.03 (offenses committed before 7/1/96)	OJI-CR 525.03 (offenses committed before 7/1/96)
525.03 (offenses committed on and after 7/1/96 but before 2/13/2001)	OJI-CR 525.03 (offenses committed on and after 7/1/96 but before 2/13/2001)
525.03 (offenses committed on and after 2/13/2001)	OJI-CR 525.03 (offenses committed on and after 2/13/2001)
525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)	OJI-CR 525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)
525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)	OJI-CR 525.04 (offenses committed on and after 7/1/96 but before 8/7/2001)
525.041	OJI-CR 525.041
525.05 (offenses committed before 3/23/2000)	OJI-CR 525.05 (offenses committed before 3/23/2000)
525.05 (offenses committed on and after 3/23/2000)	OJI-CR 525.05 (offenses committed on and after 3/23/2000)
525.06	OJI-CR 525.06
525.07	OJI-CR 525.07

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525.09(A) (offenses committed before 7/22/98)	OJI-CR 525.09(A) (offenses committed before 7/22/98)
525.09(A) (offenses committed on and after 7/22/98)	OJI-CR 525.09(A) (offenses committed on and after 7/22/98)
525.09(B)	OJI-CR 525.09(B)
525.11 (offenses committed before 7/1/96)	OJI-CR 525.11(offenses committed before 7/1/96)
525.11 (offenses committed on and after 7/1/96 but before 6/20/97)	OJI-CR 525.11 (offenses committed on and after 7/1/96 but before 6/20/97)
525.11 (offenses committed on and after 6/20/97)	OJI-CR 525.11 (offenses committed on and after 6/20/97)
525.12 (offenses committed before 7/1/96)	OJI-CR 525.12 (offenses committed before 7/1/96)
525.12 (offenses committed on and after 7/1/96)	OJI-CR 525.12 (offenses committed on and after 7/1/96)
525.13 (offenses committed before 7/1/96)	OJI-CR 525.13 (offenses committed before 7/1/96)
525.13 (offenses committed on and after 7/1/96)	OJI-CR 525.13 (offenses committed on and after 7/1/96)
525.14(C) (offenses committed before 7/1/96)	OJI-CR 525.14(C) (offenses committed before 7/1/96)
525.14(C) (offenses committed on and after 7/1/96)	OJI-CR 525.14(C) (offenses committed on and after 7/1/96)
525.22(offenses committed before 7/1/96)	OJI-CR 525.22 (offenses committed before 7/1/96)
525.22(offenses committed on and after 7/1/96)	OJI-CR 525.22(offenses committed on and after 7/1/96)
525.23 (offenses committed before 7/1/96)	OJI-CR 525.23 (offenses committed before 7/1/96)
525.23(offenses committed on and after 7/1/96 but before 7/22/98)	OJI-CR 525.23(offenses committed on and after 7/1/96 but before 7/22/98)
525.23(offenses committed on and after 7/22/98)	OJI-CR 525.23(offenses committed on and after 7/22/98)
525.24	OJI-CR 525.24
525.31(offenses committed before 7/1/96)	OJI-CR 525.31(offenses committed before 7/1/96)
525.31(offenses committed on and after 7/1/96)	OJI-CR 525.31(offenses committed on and after 7/1/96)
525.32 (offenses committed before 7/1/96)	OJI-CR 525.32 (offenses committed before 7/1/96)
525.32(offenses committed on and after 7/1/96 but before 1/1/97)	OJI-CR 525.32(offenses committed on and after 7/1/96 but before 1/1/97)
525.32(offenses committed on and after 1/1/97)	OJI-CR 525.32(offenses committed on and after 1/1/97)
525.33	OJI-CR 525.33
525.36 (offenses committed before 7/1/96)	OJI-CR 525.36 (offenses committed before 7/1/96)

Previous Instruction Number	New Edition Instruction Number
525.36 (offenses committed on and after 7/1/96)	OJI-CR 525.36 (offenses committed on and after 7/1/96)
525.37(offenses committed before 7/1/96)	OJI-CR 525.37(offenses committed before 7/1/96)
525.37 (offenses committed on and after 7/1/96)	OJI-CR 525.37 (offenses committed on and after 7/1/96)
525.42	OJI-CR 525.42
527.01	OJI-CR 527.01
527.02(B)(1)	OJI-CR 527.02(B)(1)
527.02(B)(2)	OJI-CR 527.02(B)(2)
527.02(B)(3) (offenses committed on and after 3/15/01)	OJI-CR 527.02(B)(3) (offenses committed on and after 3/15/01)
527.02(C)	OJI-CR 527.02(C)
527.03	OJI-CR 527.03
527.11	OJI-CR 527.11
527.12	OJI-CR 527.12
527.13	OJI-CR 527.13
527.21	OJI-CR 527.21
527.24(B)	OJI-CR 527.24(B)
527.24(C)	OJI-CR 527.24(C)
527.27(A) (offenses committed on and after 10/09/01)	OJI-CR 527.27(A) (offenses committed on and after 10/09/01)
527.27(B) (offenses committed on and after 10/09/01)	OJI-CR 527.27(B) (offenses committed on and after 10/09/01)
533.92	OJI-CR 533.92
547.11(A)(1)(offenses committed on and after 1/1/04)	OJI-CR 547.11(A)(1)(offenses committed on and after 1/1/04)
547.11(A)(2)-(6) (offenses committed on and after 1/1/04)	OJI-CR 547.11(A)(2)-(6) (offenses committed on and after 1/1/04)
547.11(B)(offenses committed on and after 1/1/04)	OJI-CR 547.11(B)(offenses committed on and after 1/1/04)
549.01(offenses committed on and after 1/1/04)	OJI-CR 709.01(offenses committed on and after 1/1/04)
549.02	OJI-CR 749.02
549.021	OJI-CR 749.021
549.03	OJI-CR 749.03
549.62(A)	OJI-CR 749.62(A)
549.62(B)	OJI-CR 749.62(B)
549.62(C)	OJI-CR 749.62(C)
549.62(D)	OJI-CR 749.62(D)
550.02 (offenses committed before 7/1/97)	OJI-CR 550.02 (offenses committed before 7/1/97)
550.04 (offenses committed on and after 7/1/97 but before 7/13/030)	OJI-CR 550.04 (offenses committed on and after 7/1/97 but before 7/13/030)
550.04 (offenses committed on and after 7/31/03)	OJI-CR 550.04 (offenses committed on and after 7/31/03)

Previous Instruction Number	New Edition Instruction Number
550.041 (offenses committed on and after 7/31/04)	OJI-CR 550.041 (offenses committed on and after 7/31/04)
550.05 (offenses committed before 7/1/97)	OJI-CR 550.05 (offenses committed before 7/1/97)
550.05 (offenses committed on and after 7/1/97 but before 7/31/03)	OJI-CR 550.05 (offenses committed on and after 7/1/97 but before 7/31/03)
550.05 (offenses committed on and after 7/31/03 but before 4/29/05)	OJI-CR 550.05 (offenses committed on and after 7/31/03 but before 4/29/05)
550.05 (offenses committed on and after 4/29/05)	OJI-CR 550.05 (offenses committed on and after 4/29/05)
550.06 (offenses committed on and after 7/1/97 but before 7/31/03)	OJI-CR 550.06 (offenses committed on and after 7/1/97 but before 7/31/03)
550.06 (offenses committed on and after 7/31/03)	OJI-CR 550.06 (offenses committed on and after 7/31/03)
551.01	OJI-CR 551.01
551.03	OJI-CR 551.03
551.05	OJI-CR 551.05
551.07	OJI-CR 551.07
551.09	OJI-CR 551.09
551.11	OJI-CR 551.11
555.03	OJI-CR 559.03
710.11(A)(offenses committed before 1/1/04)	OJI-CR 710.11(A)(offenses committed before 1/1/04)
710.11(A) (offenses committed on and after 1/1/04)	OJI-CR 710.11(A) (offenses committed on and after 1/1/04)
710.11(B)(offenses committed before 1/1/04)	OJI-CR 710.11(B)(offenses committed before 1/1/04)
710.11(B) (offenses committed on and after 1/1/04)	OJI-CR 710.11(B) (offenses committed on and after 1/1/04)
710.12(A)(1)(a)(offenses committed before 1/1/04)	OJI-CR 710.12(A)(1)(a)(offenses committed before 1/1/04)
710.12(A)(1)(a) (offenses committed on and after 6/1/04)	OJI-CR 710.12(A)(1)(a) (offenses committed on and after 6/1/04)
710.12(A)(1)(b) (offenses committed before 1/1/04)	OJI-CR 710.12(A)(1)(b) (offenses committed before 1/1/04)
710.12(A)(1)(b) (offenses committed on and after 1/1/04)	OJI-CR 710.12(A)(1)(b) (offenses committed on and after 1/1/04)
710.12(A)(2) (offenses committed before 1/1/04)	OJI-CR 710.12(A)(2) (offenses committed before 1/1/04)
710.12(A)(2)(offenses committed on and after 1/1/04)	OJI-CR 710.12(A)(2)(offenses committed on and after 1/1/04)
710.16(offenses committed before 1/1/04)	OJI-CR 710.16(offenses committed before 1/1/04)
710.16 (offenses committed before 1/1/04)	OJI-CR 710.16 (offenses committed before 1/1/04)
710.21 (offenses committed before 1/1/04)	OJI-CR 710.21 (offenses committed before 1/1/04)

Previous Instruction Number	New Edition Instruction Number
710.21(offenses committed on and after 1/1/04)	OJI-CR 710.21(offenses committed on and after 1/1/04)
711.19 (offenses committed before 1/1/04)	OJI-CR 711.19 (offenses committed before 1/1/04)
711.19 (offenses committed on and after 1/1/04 but before 6/1/04)	OJI-CR 711.19 (offenses committed on and after 1/1/04 but before 6/1/04)
711.19(offenses committed on and after 6/1/04)	OJI-CR 711.19(offenses committed on and after 6/1/04)
711.19(A) (offenses committed before 6/30/03)	OJI-CR 711.19(A) (offenses committed before 6/30/03)
711.19(A)(offenses committed on and after 6/30/03 but before 1/1/04)	OJI-CR 711.19(A)(offenses committed on and after 6/30/03 but before 1/1/04)
711.19(A)(offenses committed on and after 1/1/04 but before 6/1/04)	OJI-CR 711.19(A)(offenses committed on and after 1/1/04 but before 6/1/04)
711.19(A)(offenses committed on and after 6/1/04)	OJI-CR 711.19(A)(offenses committed on and after 6/1/04)
711.19(A)(1)(b)-(j) (offenses committed on and after 8/17/06)	711.19(A)(1)(b)-(j) (offenses committed on and after 8/17/06)
711.19(A)(2) (offenses committed on and after 9/23/04)	OJI-CR 711.19(A)(2) (offenses committed on and after 9/23/04)
711.19(B) (offenses committed before 6/30/03)	OJI-CR 711.19(B) (offenses committed before 6/30/03)
711.19(B) (offenses committed on and after 6/30/03 but before 1/1/04)	OJI-CR 711.19(B) (offenses committed on and after 6/30/03 but before 1/1/04)
711.19(B) (offenses committed on and after 1/1/04 but before 6/1/04)	OJI-CR 711.19(B) (offenses committed on and after 1/1/04 but before 6/1/04)
711.19(B)(offenses committed on and after 6/1/04)	OJI-CR 711.19(B)(offenses committed on and after 6/1/04)
711.194	OJI-CR 711.194
711.203 (offenses committed before 1/1/04)	OJI-CR 711.203 (offenses committed before 1/1/04)
711.203 (offenses committed on and after 1/1/04)	OJI-CR 711.203 (offenses committed on and after 1/1/04)

Chapter CR 521

OFFENSES AGAINST JUSTICE AND PUBLIC ADMINISTRATION

COMMENT

Senate Bill 2 (S.B. 2), effective July 1, 1996, is primarily felony sentencing legislation. It applies prospectively to offenses committed on and after July 1, 1996 except as may be otherwise required by RC 1.58. Some instructions in this Chapter apply only to offenses committed on and after July 1, 1996. The other instructions are not affected by S.B. 2.

- CR 521.02 Bribery R.C. 2921.02 (offenses committed before 10/1/12) *[Rev. 9/12/20]*
- CR 521.02 Bribery R.C. 2921.02 (offenses committed on and after 10/1/12) *[Rev. 9/12/20]*
- CR 521.03 Intimidation (offenses committed on and after 11/6/96)
- CR 521.04 Intimidation of a(n) attorney, victim or witness in a criminal case (offenses committed on and after 9/3/96 but before 6/4/12) *[Rev. 5-12-12]*
- CR 521.04 Intimidation of a/an attorney, victim or witness in a criminal case (offenses committed on and after 6/4/12) *[Rev. 9/12/20]*
- CR 521.05 Retaliation R.C. 2921.05 *[Rev. 9/12/20]*
- CR 521.11 Perjury
- CR 521.12 Tampering with evidence
- CR 521.13 Falsification; in theft offense; to purchase firearm; to obtain concealed-handgun license; regarding a removal proceeding R.C. 2921.13 (offenses committed on and after 3/23/15) *[Rev. 10/10/20]*
- CR 521.14 Making or causing a false report of child abuse or neglect
- CR 521.17 Restrictions on present or former public officials or employees R.C. 102.03 (offenses committed on and after 9/29/17) *[Rev. 1/30/21]*
- CR 521.21 Compounding a crime
- CR 521.22(A) Failure to report a crime: a felony or the unauthorized use of computer, cable, or telecommunication property R.C. 2921.22(A) (offenses committed on and after 4/7/09) *[Rev. 10/10/20]*
- CR 521.22(B) Failure to report a crime: gunshot/stab wound R.C. 2921.22(B) (offenses committed on and after 4/6/17) *[Rev. 10/10/20]*
- CR 521.22(C) Failure to report knowledge of a death R.C. 2921.22(C) (offenses committed on and after 4/6/17) *[Rev. 10/10/20]*
- CR 521.22(D) Failure to report knowledge of a death (offenses committed on and after 3/18/97)
- CR 521.22(E) Failure to report a burn injury R.C. 2921.22(E) (offenses committed on and after 4/6/17) *[Rev. 10/10/20]*

- CR 521.24 Disclosure of confidential information R.C. 2921.24 (offenses committed on and after 3/30/07) *[Rev. 11/7/20]*
- CR 521.31 Obstructing official business R.C. 2921.31 *[Rev. 11/7/20]*
- CR 521.32(A) Obstructing justice, where the person aided by the defendant was an adult R.C. 2921.32 (offenses committed on and after 6/27/12) *[Rev. 5/22/21]*
- CR 521.32(B) Obstructing justice, where the person aided by the defendant was a minor R.C. 2921.32 (offenses committed on and after 6/27/12) *[Rev. 5/22/21]*
- CR 521.321(A) Assaulting a police dog or police horse R.C. 2921.321 *[Rev. 5/22/21]*
- CR 521.321(B) Harassing a police dog or police horse R.C. 2921.321 *[Rev. 5/22/21]*
- CR 521.321(C) Assaulting an assistance dog R.C. 2921.321 *[Rev. 5/22/21]*
- CR 521.321(D) Harassing an assistance dog R.C. 2921.321 *[Rev. 5/22/21]*
- CR 521.33 Resisting arrest R.C. 2921.33 (offenses committed on and after 9/16/97) *[Rev. 5/22/21]*
- CR 521.331 Failure to comply with an order or signal of a police officer R.C. 2931.331 *[Rev. 10/9/21]*
- CR 521.34(A)(1) Escape R.C. 2921.34(A)(1) (offenses committed before 9/30/11) *[Rev. 12–10–11]*
- CR 521.34(A)(1) Escape R.C. 2921.34(A)(1) (offenses committed on and after 9/30/11) *[Rev. 12–10–11]*
- CR 521.34(A)(2) Escape (offense committed by sexually violent predator on and after 1/1/97)
- CR 521.35(A) Aiding escape or resistance to lawful authority (conveyance of instrument or thing into detention facility)
- CR 521.35(B) Aiding escape or resistance to lawful authority
- CR 521.36 Illegal conveyance of weapons, drugs, or prohibited items R.C. 2921.36 (offenses committed on and after 10/5/09) *[Rev. 11/5/16]*
- CR 521.38 Harassment with a bodily substance R.C. 2921.38 (offenses committed on and after 4/4/07) *[Rev. 10/9/21]*
- CR 521.41 Theft in office
- CR 521.42 Having an unlawful interest in a public contract *[Rev. 1–22–11]*
- CR 521.43(A) Soliciting improper compensation (illegal or additional compensation)
- CR 521.43(B) Soliciting improper compensation (for appointment, preference)
- CR 521.43(C) Soliciting improper compensation (coerced contributions) R.C. 2921.43(C) *[Rev. 1/29/22]*
- CR 521.44(A) Dereliction of duty (law enforcement officer)
- CR 521.44(B) Dereliction of duty (law enforcement, ministerial, judicial officer)
- CR 521.44(C) Dereliction of duty (officer of a detention facility)
- CR 521.44(D) Dereliction of duty (public official)
- CR 521.44(E) Dereliction of duty (public servant) R.C. 2921.44(E) *[Rev. 1/29/22]*
- CR 521.45 Interfering with civil rights
- CR 521.51(B) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) R.C. 2951.51(B) *[Rev. 2/26/22]*
- CR 521.51(C) Impersonating a/an (peace officer) (private police officer) (federal law-

enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) in connection with a/an (arrest) (detention) (search) R.C. 2951.51(C) [Rev. 2/26/22]

CR 521.51(D) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) to commit or facilitate an offense R.C. 2951.51(D) [Rev. 2/26/22]

CR 521.51(E) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) while committing a felony R.C. 2951.51(E) [Rev. 2/26/22]

CR 521.52 Using sham legal process

CR 521.02 Bribery R.C. 2921.02 (offenses committed before 10/1/12) [Rev. 9/12/20]

1. The defendant is charged with bribery. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant

(Use appropriate alternative)

(A) (promised) (offered) (gave) any valuable (thing) (benefit), with purpose to corrupt a (public servant) (party official), or improperly to influence him/her with respect to the discharge of his/her duty, whether before or after the (public servant) (party official) was (elected) (appointed) (qualified) (employed) (summoned) (sworn).

(or)

(B) knowingly (solicited) (accepted) for (himself/herself) (another person) any valuable (thing) (benefit) to corrupt or improperly influence (him/her) (another [public servant] [party official]) with respect to the discharge of (his/her) (the other [public servant's] [party official's] duty), whether before or after the defendant was (elected) (appointed) (qualified) (employed) (summoned) (sworn) as a (public servant) (party official).

(or)

(C) (promised) (offered) (gave) a (witness) (another person) any valuable (thing) (benefit), with purpose to corrupt the witness or to influence him/her with respect to his/her testimony in (*describe official proceeding*), either before or after the witness was subpoenaed or sworn.

(or)

(D) knowingly (solicited) (accepted) for (himself/herself) (another person) any valuable (thing) (benefit) to corrupt or improperly influence the defendant with respect to his/her testimony in (*describe official proceeding*), either before or after the defendant was subpoenaed or sworn as a witness.

2. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

3. CORRUPT. "To corrupt" means to destroy or undermine the honesty or integrity of another; to taint; to infect.

4. PUBLIC SERVANT. R.C. 2921.01(B).

5. PARTY OFFICIAL. "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

COMMENT

R.C. 2921.01(C).

6. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

7. SOLICITED. "To solicit" means to entice, urge, lure or ask.

8. OFFICIAL PROCEEDING. R.C. 2921.01(D).

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.02 Bribery R.C. 2921.02 (offenses committed on and after 10/1/12)
[Rev. 9/12/20]

1. The defendant is charged with bribery. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ County (*other jurisdiction*), Ohio, the defendant

(Use appropriate alternative)

(A) (promised) (offered) (gave) any valuable (thing) (benefit), with purpose to (corrupt) (improperly influence) a (public servant) (party official) with respect to the discharge of the (public servant's) (party official's) duty, whether before or after the (public servant) (party official) was (elected) (appointed) (qualified) (employed) (summoned) (sworn);

(or)

(B) knowingly (solicited) (accepted) for (himself/herself) (another person) any valuable (thing) (benefit) to (corrupt) (improperly influence) a (public servant) (party official) with respect to the discharge of the (public servant's) (party official's) duty, whether before or after the defendant was (elected) (appointed) (qualified) (employed) (summoned) (sworn) as a (public servant) (party official);

(or)

(C) (promised) (offered) (gave) a (witness) (another person) any valuable (thing) (benefit), with purpose to corrupt the witness or to improperly influence him/her with respect to his/her testimony in (*describe official proceeding*), either before or after the witness was subpoenaed or sworn;

(or)

(D) knowingly (solicited) (accepted) for (himself/herself) (another person) any valuable (thing) (benefit) to corrupt or improperly influence the defendant with respect to his/her testimony in (*describe official proceeding*), either before or after the defendant was subpoenaed or sworn as a witness;

(Text continued on page 59)

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. [REDACTED]

14. [REDACTED]

15. [REDACTED]

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
4. AFFIRMATIVE DEFENSE:

COMMENT

This affirmative defense is available only to defendants to whom § 1(B) above applies.

(A) GENERAL. OJI-CR 417.27.

(B) VOLUNTARY CONTRIBUTION. R.C. 2921.43(F).

The defendant claims that his/her contribution was a voluntary contribution to a (political party) (campaign committee) (legislative campaign fund) (political action committee) (political contributing entity).

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

**CR 521.43(B) Soliciting improper compensation (for appointment, preference)
R.C. 2921.43(B)**

COMMENT

The Committee believes that R.C. 2921.43(B) imposes strict criminal liability. See *State v. Wac* (1981), 68 Ohio St.2d 84, 22 O.O.3d 299, 428 N.E.2d 428, applying R.C. 2901.21(B).

1. The defendant is charged with soliciting improper compensation. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative[s])

was a public servant and for his/her own personal or business use,

(or)

for (his/her own personal or business use) (the personal or business use of a [public servant] [party official]),

(solicited) (accepted) anything of value in consideration of

(Use appropriate alternative[s])

(1) (appointing) ([securing] [maintaining] [renewing] the appointment of) a person

to any public (office) (employment) (agency).

(or)

(2) (preferring) (maintaining the status of) any public employee with respect to his/her (compensation) (duties) (placement) (location) (promotion) (*describe any other material aspect of the public employee's employment*).

2. PUBLIC SERVANT. R.C. 2921.01(B).

3. PARTY OFFICIAL. "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which he directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

COMMENT

R.C. 2921.01(C).

4. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) VOLUNTARY CONTRIBUTION. R.C. 2921.43(F).

The defendant claims that he/she solicited or accepted a voluntary contribution to or on behalf of (political party) (campaign committee) (legislative campaign fund) (political action committee) (political contributing entity).

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.43(C) Soliciting improper compensation (coerced contributions) R.C. 2921.43(C) [Rev. 1/29/22]

COMMENT

The Committee believes that R.C. 2921.43(C) imposes strict criminal liability. *See State v. Johnson*, 128 Ohio St.3d 107, 2010-Ohio-6301 ("R.C. 2901.21(B) applies only to those offenses for which there is a complete absence of a culpable mental state"). Given that R.C. 2921.43(A) includes the culpable mental state of "knowingly," the absence of any mental state in R.C. 2921.43(C) appears to reflect an intent on the part of the General Assembly that any violation of R.C. 2921.43(C) is a strict-liability offense.

1. The defendant is charged with soliciting improper compensation. Before you can find

the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ County (*other jurisdiction*), Ohio, the defendant, for the benefit of a (political party) (campaign committee) (legislative campaign fund) (political action committee) (political contributing entity), coerced a contribution in consideration of

(Use appropriate alternative[s])

(C)(1) (appointing) ([securing] [maintaining] [renewing] the appointment of) a person to any public (office) (employment) (agency);

(or)

(C)(2) (preferring) (maintaining the status of) a public employee with respect to (compensation) (duties) (placement) (location) (promotion) (*describe other material aspects*) for/of his/her employment.

2. POLITICAL PARTY. R.C. 3517.01.

3. CAMPAIGN COMMITTEE. "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and make expenditures.

COMMENT

Drawn from R.C. 3517.01.

4. LEGISLATIVE CAMPAIGN FUND. "Legislative campaign fund" means a fund that is established as an auxiliary of a state political party and associated with one of the houses of the Ohio General Assembly.

COMMENT

R.C. 3517.01.

5. POLITICAL ACTION COMMITTEE. R.C. 3517.01.

6. POLITICAL CONTRIBUTING ENTITY. R.C. 3517.01.

7. COERCE. To "coerce" means to threaten another person with a purpose to pressure or force that person to take or to refrain from taking some action, regardless of how that person responds to the threat.

COMMENT

Drawn from *State v. Conese*, 102 Ohio St.3d 435, 2004-Ohio-3889.

8. PURPOSE. R.C. 2901.22(A); OJI-CR 417.01.
9. CONTRIBUTION. R.C. 3517.01.
10. PUBLIC (OFFICE) (EMPLOYMENT) (EMPLOYEE). R.C. 3517.01; R.C. 102.01.
11. PUBLIC AGENCY. R.C. 102.01.
12. AFFIRMATIVE DEFENSE:
 - (A) GENERAL. OJI-CR 417.27.
 - (B) VOLUNTARY CONTRIBUTION.

Any person is permitted to make voluntary contributions to a (political party) (campaign committee) (legislative campaign fund) (political action committee) (political contributing entity). The defendant claims that the contribution(s) in question was/were voluntary.

COMMENT

Drawn from R.C. 2921.43(F).

13. CONCLUSION. OJI-CR 425.01.
14. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.
15. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.44(A) Dereliction of duty (law enforcement officer) R.C. 2921.44(A)

1. The defendant is charged with dereliction of duty. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, was a law enforcement officer, and negligently failed to

(Use appropriate alternative)

(A)(1) serve a lawful warrant without delay.

(or)

(A)(2) ([prevent] [halt] the commission of an offense) (apprehend an offender), when it was in his/her power to do so (alone) (with available assistance).

2. LAW ENFORCEMENT OFFICER. R.C. 2901.01(K).
3. NEGLIGENTLY. OJI-CR 417.19; R.C. 2901.22(D).
4. CONCLUSION. OJI-CR 425.01.

5. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.44(B) Dereliction of duty (law enforcement, ministerial, judicial officer) R.C. 2921.44(B)

1. The defendant is charged with dereliction of duty. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was a (law enforcement) (ministerial) (judicial) officer, and negligently failed to perform a lawful duty in a criminal (case) (proceeding).

2. LAW ENFORCEMENT OFFICER. R.C. 2901.01(K).

3. MINISTERIAL OFFICER. “Ministerial officer” means any person whose duties require obedience to instructions or the law, and do not allow the exercise of discretion or judgment with respect to the duty in issue.

COMMENT

Drawn from Black’s Law Dictionary 1011 (7th Ed. 1999).

4. JUDICIAL OFFICER. “Judicial officer” means judge of the court of common pleas, probate court, juvenile court, municipal court, or county court, or the mayor of a municipal corporation having a mayor’s court, and any magistrate appointed by a court or mayor’s court.

COMMENT

Drawn from Crim.R. 2(E) and (F).

5. NEGLIGENTLY. OJI-CR 417.19; R.C. 2901.22(D).

6. LAWFUL DUTY. “Lawful duty” means any act or acts required by law.

7. CONCLUSION. OJI-CR 425.01.

8. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.44(C) Dereliction of duty (officer of a detention facility) R.C. 2921.44(C)

1. The defendant is charged with dereliction of duty. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was an officer who had charge of a detention facility, and negligently

(Use appropriate alternative)

(C)(1) allowed the detention facility to become (littered) (unsanitary).

(or)

(C)(2) failed to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention.

(or)

(C)(3) failed to (control an unruly prisoner) (prevent [intimidation of] [physical harm to] a prisoner by another).

(or)

(C)(4) allowed a prisoner to escape.

(or)

(C)(5) failed to observe a lawful and reasonable regulation for the management of the detention facility.

2. DETENTION FACILITY. R.C. 2921.01(F).

COMMENT

The Committee believes that “detention facility” includes those facilities turned over to private contractors for private operation and management under R.C. 9.06 and 9.07.

3. NEGLIGENCE. OJI-CR 417.19; R.C. 2901.22(D).

4. PHYSICAL HARM TO PERSONS. “Physical harm to persons” means any injury, illness, or other physiological impairment regardless of its gravity or duration.

COMMENT

R.C. 2901.01(A)(3).

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.44(D) Dereliction of duty (public official) R.C. 2921.44(D)

1. The defendant is charged with dereliction of duty. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was a public official of the state and recklessly (created a deficiency

in) (incurred a liability in) (expended) a greater sum than was appropriated by the general assembly for the use in any one year of the (department) (agency) (institution) of the state with which the defendant was connected.

2. PUBLIC OFFICIAL. "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers.

COMMENT

R.C. 2921.01(A).

3. RECKLESSLY. OJI-CR 417.17; R.C. 2901.22(C).

4. CONCLUSION. OJI-CR 425.01.

5. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.44(E) Dereliction of duty (public servant) R.C. 2921.44(E) [Rev. 1/29/22]

1. The defendant is charged with dereliction of duty. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was a public servant and recklessly (failed to perform a duty expressly imposed by law) (did an act expressly forbidden by law) with respect to his/her office.

2. PUBLIC SERVANT. R.C. 2921.01, R.C. 2921.44(H).

3. RECKLESSLY. OJI-CR 417.17; R.C. 2901.22(C).

4. CONCLUSION. OJI-CR 425.01.

5. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.45 Interfering with civil rights R.C. 2921.45

1. The defendant is charged with interfering with civil rights. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was a public servant, and under color of his/her (office) (employment) (authority), knowingly (deprived) ([conspired] [attempted]) to deprive) a person of his/her (*describe constitutional or statutory right*).

2. PUBLIC SERVANT. R.C. 2921.01(B).

3. COLOR. "Color of (office) (employment) (authority)" means having the appearance of the (office) (employment) (authority).

COMMENT

Drawn from Black's Law Dictionary 259 (7th Ed. 1999).

4. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
5. CONCLUSION. OJI-CR 425.01.
6. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.51(B) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) R.C. 2921.51(B) [Rev. 2/26/22]

COMMENT

The Committee believes that R.C. 2921.51(B) imposes strict criminal liability. *See Johnson v. Bradshaw*, 493 Fed. Appx. 666 (6th Cir.2012) ("Impersonating an officer [under Ohio law] is a strict-liability crime"); *State v. Johnson*, 8th Dist. Cuyahoga Nos. 81692 and 81693, 2003-Ohio-3241 ("R.C. 2921.51 . . . is a strict liability crime which may be proven without regard to culpable mental state").

1. The defendant is charged with impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant impersonated a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation).
2. IMPERSONATE. R.C. 2921.51(A)(4).
3. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
4. PEACE OFFICER. R.C. 2921.51(A)(1).
5. PRIVATE POLICE OFFICER. "Private police officer" means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

COMMENT

R.C. 2921.51(A)(2).

6. FEDERAL LAW-ENFORCEMENT OFFICER. R.C. 2921.51(A)(3).
7. INVESTIGATOR OF THE OHIO BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION. R.C. 2921.51(A)(5), R.C. 2903.11.
8. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) LAWFUL PURPOSE. R.C. 2921.51(F). The defendant claims that his/her impersonation of the (peace officer) (private police officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) was for a lawful purpose. The defendant's impersonation was for a lawful purpose if it was not otherwise prohibited by law and was not intended to mislead or deceive.

COMMENT

Drawn from *State v. Gandy*, 12th Dist. Butler No. CA2002-04-097, 2002-Ohio-6678 ("the affirmative defense of 'lawful purpose' is not applicable to preclude a guilty verdict where the impersonation of a peace officer is designed to make a person believe that the actor is entitled to a certain status by virtue of his position as a peace officer"); *Parma v. Ritondaro*, 8th Dist. Cuyahoga No. 108740, 2021-Ohio-1961 ("the intent of R.C. 2921.51 was to prevent the misleading of persons who might misapprehend the power or influence of an actor by relying on the impersonation"); *State v. Judd*, 8th Dist. Cuyahoga No. 89278, 2007-Ohio-6811 ("convenience alone is not a lawful purpose under R.C. 2921.51(F)"); *State v. Forgac*, 7th Dist. Mahoning No. 02-CA-57, 2003-Ohio-4462 (rejecting an assertion of the affirmative defense where the defendant "had no right to waive a gun around and point it at the residents on the porch and to represent himself as the police").

9. CONCLUSION. OJI-CR 425.01.
10. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03; R.C. 2921.51(F).
11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.51(C) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) in connection with a/an (arrest) (detention) (search) R.C. 2921.51(C) [Rev. 2/26/22]

COMMENT

The Committee believes that R.C. 2921.51(C) imposes strict criminal liability. See *Johnson v. Bradshaw*, 493 Fed. Appx. 666 (6th Cir.2012) ("Impersonating an officer [under Ohio law] is a strict-liability crime"); *State v. Johnson*, 8th Dist. Cuyahoga Nos. 81692 and 81693, 2003-Ohio-3241 ("R.C. 2921.51 . . . is a strict

liability crime which may be proven without regard to culpable mental state”).

1. The defendant is charged with conducting a/an (arrest) (detention) (search) while impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant impersonated a/an (peace officer) (private police officer) (federal law-enforcement officer) (investigator of the Ohio Bureau of Criminal Identification and Investigation) and (arrested) (detained) (searched) (searched the property of) a person.

2. IMPERSONATE. R.C. 2921.51(A)(4).

3. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

4. PEACE OFFICER. R.C. 2921.51(A)(1).

5. PRIVATE POLICE OFFICER. “Private police officer” means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

COMMENT

R.C. 2921.51(A)(2).

6. FEDERAL LAW-ENFORCEMENT OFFICER. R.C. 2921.51(A)(3).

7. INVESTIGATOR OF THE OHIO BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION. R.C. 2921.51(A)(5), R.C. 2903.11.

8. ARREST. “Arrest” means

(A) an intent to arrest;

(B) under real or pretended authority;

(C) accompanied by the (actual) (constructive) seizure or detention of the person; and

(D) which is so understood by the person arrested.

COMMENT

Drawn from *State v. Darrah*, 64 Ohio St.2d 22 (1980).

9. DETENTION. R.C. 2921.01.

10. AFFIRMATIVE DEFENSE: OJI-CR 417.27.

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03; R.C. 2921.51(F).
13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.51(D) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) to commit or facilitate an offense R.C. 2921.51(D) [Rev. 2/26/22]

1. The defendant is charged with impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) to commit or facilitate an offense. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with a purpose to (commit [*insert name of offense*]) (facilitate the commission of [*insert name of offense*]), impersonated a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation).
2. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
3. FACILITATE. To “facilitate” means to help, promote, assist, or aid.

COMMENT

Drawn from *State v. Rhodes*, 12th Dist. Butler No. CA2003-12-332, 2004-Ohio-6659.

4. OFFENSE.

COMMENT

The court must instruct the jury on the elements of the applicable offense, together with the meaning of pertinent words and phrases.

5. IMPERSONATE. R.C. 2921.51(A)(4).
6. PEACE OFFICER. R.C. 2921.51(A)(1).
7. PRIVATE POLICE OFFICER. “Private police officer” means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

COMMENT

R.C. 2921.51(A)(2).

8. FEDERAL LAW-ENFORCEMENT OFFICER. R.C. 2921.51(A)(3).
9. INVESTIGATOR OF THE OHIO BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION. R.C. 2921.51(A)(5), R.C. 2903.11.
10. AFFIRMATIVE DEFENSE. OJI-CR 417.27.
11. ADDITIONAL FINDING. OJI-CR 425.25.
 - (A) PURPOSE TO COMMIT OR FACILITATE THE COMMISSION OF A FELONY.

COMMENT

If the underlying offense is one that can be a misdemeanor or a felony and if the indictment alleges that the intended offense was a felony, the trial judge must give a separate verdict form for the jury to determine whether the prosecution has proven that the defendant acted with the purpose to commit or facilitate the commission of a felony.

12. CONCLUSION. OJI-CR 425.01.
13. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03; R.C. 2921.51(F).
14. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.51(E) Impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation) while committing a felony R.C. 2921.51(E) [Rev. 2/26/22]

1. The defendant is charged with committing *[insert name of the felony offense]* while impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, while impersonating a/an (peace officer) (private police officer) (federal law-enforcement officer) ([officer] [agent] [employee] of the state) (investigator of the Ohio Bureau of Criminal Identification and Investigation), committed a *[insert name of felony]*.

2. IMPERSONATE. R.C. 2921.51(A)(4).
3. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).

4. FELONY.

COMMENT

The court must instruct the jury on the elements of the applicable felony, together with the meaning of pertinent words and phrases.

5. PEACE OFFICER. R.C. 2921.51(A)(1).

6. PRIVATE POLICE OFFICER. "Private police officer" means any security guard, special police officer, private detective, or other person who is privately employed in a police capacity.

COMMENT

R.C. 2921.51(A)(2).

7. FEDERAL LAW-ENFORCEMENT OFFICER. R.C. 2921.51(A)(3).

8. INVESTIGATOR OF THE OHIO BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION. R.C. 2921.51(A)(5), R.C. 2903.11.

9. AFFIRMATIVE DEFENSE: OJI-CR 417.27.

10. CONCLUSION. OJI-CR 425.01.

11. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03; R.C. 2921.51(F).

12. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 521.52 Using sham legal process R.C. 2921.52

1. The defendant is charged with using sham legal process. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant, knowing he was using sham legal process, knowingly

(Use appropriate alternative[s])

(1) (issued) (displayed) (delivered) (distributed) *(describe other use)* sham legal process.

(or)

(2) used sham legal process to (arrest) (detain) (search) (seize) (any person) (the property of another person).

(or)

(3) (committed) (facilitated the commission of) (*insert name of the offense*) using sham legal process.

(or)

(4) committed (*insert name of the felony*) by using sham legal process.

2. SHAM LEGAL PROCESS. R.C. 2921.52(A)(4).
3. LAWFULLY ISSUED. R.C. 2921.52(A)(1).
4. STATE. R.C. 2921.52(A)(2).
5. POLITICAL SUBDIVISION. R.C. 2921.52(A)(3).
6. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
7. ARREST, DETAIN OR SEIZE.

COMMENT

The Committee believes that since an arrest always includes a detention or a seizure, there is no need to instruct the jury on the definition of “arrest.”

8. OFFENSE OR FELONY

COMMENT

Instructions must be given describing the elements of the offense or the felony, with explanation of technical words and phrases.

9. AFFIRMATIVE DEFENSE:

GENERAL. OJI-CR 417.27.

LAWFUL PURPOSE. R.C. 2921.52(C), (B)(1) and (2).

The defendant claims that the use of sham legal process was for a lawful purpose.

10. CONCLUSION. OJI-CR 425.01.
11. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03; R.C. 2921.52(C).
12. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

(Text continued on page 143)

Chapter CR 525

DRUGS

- CR 525.02 Corrupting another with drugs (offenses committed on and after 7/22/98) *[Rev. 1-5-13]*
- CR 525.03 Trafficking in drugs R.C. 2925.03 (offenses committed on and after 9/23/04) *[Rev. 11/18/17]*
- CR 525.04 Illegal manufacture of drugs or cultivation of marihuana R.C. 2925.04 (offenses committed on and after 9/23/04 but before 5/17/06) *[Rev. 11/18/17]*
- CR 525.04 Illegal manufacture of drugs or cultivation of marihuana R.C. 2925.04 (offenses committed on and after 5/17/06) *[Rev. 11/18/17]*
- CR 525.041 Illegal assembly or possession of chemicals for the manufacture of drugs *[Rev. 5-2-09]*
- CR 525.05 Funding, aggravated funding of drug or marihuana trafficking (offenses committed on and after 3/23/2000) *[Rev. 1-5-13]*
- CR 525.06 Illegal administration or distribution of anabolic steroid *[Rev. 5-2-09]*
- CR 525.09(A) Trafficking in drugs that are not controlled substances (offenses committed on and after 7/22/98)
- CR 525.09(B) Trafficking in dangerous drugs for animals *[Rev. 1-26-08]*
- CR 525.11 Aggravated possession of drugs, possession of drugs, marihuana, cocaine, L.S.D., heroin, or hashish R.C. 2925.11 (offenses committed on and after 9/13/16) *[Rev. 12/10/16]*
- CR 525.12 Possessing drug abuse instruments (offenses committed on and after 7/1/96) *[Rev. 5-2-09]*
- CR 525.13 Permitting drug abuse (offenses committed on and after 7/1/96)
- CR 525.14(C) Drug paraphernalia offenses R.C. 2925.14(C) (offenses committed on and after 7/1/96) *[Rev. 2/22/20]*
- CR 525.22 Deception to obtain a dangerous drug (offenses committed on and after 7/1/96)
- CR 525.23 Illegal processing of drug documents (offenses committed on and after 7/22/98 but before 3/22/19) *[Rev. 1/29/22]*
- CR 525.23 Illegal processing of drug documents R.C. 2925.23 (offenses committed on and after 3/22/19) *[Rev. 1/29/22]*
- CR 525.24 Tampering with drugs *[Rev. 5-2-09]*
- CR 525.31 Abusing harmful intoxicants (offenses committed on and after 7/1/96)
- CR 525.32 Trafficking in harmful intoxicants (offenses committed on and after 1/1/97)
- CR 525.33 Possessing nitrous oxide in a motor vehicle
- CR 525.36 Illegal dispensing of drug samples R.C. 2925.36 (offenses committed on and after 7/1/96 but before 9/23/04) *[Rev. 11/18/17]*

- CR 525.36 Illegal dispensing of drug samples R.C. 2925.36 (offenses committed on and after 9/23/04) [Rev. 11/18/17]
- CR 525.37 Offenses involving counterfeit controlled substances (offenses committed on and after 7/1/96)
- CR 525.42 Forfeiture of property in connection with felony drug abuse conviction
- CR 525.55 Unlawful or improper purchase of pseudoephedrine or ephedrine products (offenses committed on and after 3/20/13) [Rev. 2/8/14]
- CR 525.56 Unlawful sale of pseudoephedrine product (offenses committed on and after 5/17/06 but before 3/21/13) [Rev. 2/8/14]
- CR 525.56 Unlawful or improper sale of a pseudoephedrine or ephedrine product (offenses committed on and after 3/20/13) [Rev. 2/8/14]

COMMENT

Throughout this chapter, various offenses contain the terms “controlled substance,” “dangerous drug,” “anabolic steroid,” and “bulk amount.” Reference is also made to the Revised Code’s scheduling of specific drugs. It is for a court to determine as a matter of law whether a specific substance is a controlled substance or a dangerous drug. Further, the court must determine the applicable statutory schedule. It is for the finder of fact to determine whether the specific substance at issue in each case is the controlled substance set forth in the charging document. It is for a court to determine as a matter of law the issue of what is the bulk amount in each case. It is for a jury to determine as a question of fact the amount of the substance involved in a specific case in relation to the bulk amount. The jury must make the additional finding as to the exact amount or find the applicable statutorily defined range for the drug involved in each case. A factual determination that enhances a penalty must always be made by the finder of fact. *Apprendi v. New Jersey*, 530 U.S. 466 (2000). For listings or definitions, see:

Bulk Amount. R.C. 2925.01.

Drug Offense Definitions. R.C. 2925.01.

Controlled Substances Definition. R.C. 3719.01.

Controlled Substance Schedules. R.C. 3719.41.

Dangerous Drug. R.C. 3719.01, 4729.01.

Drug of Abuse. R.C. 3719.011.

CR 525.02 Corrupting another with drugs R.C. 2925.02 (offenses committed on and after 7/22/98) [Rev. 1-5-13]

1. The defendant is charged with corrupting another with drugs. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County (*other jurisdiction*), Ohio, the defendant knowingly

(*Use appropriate alternative*)

(A)(1) by (force) (threat) (deception)

(Use appropriate alternative)

(a) administered (*insert name of controlled substance*) to (*insert name of person*).

(or)

(b) (induced) (caused) another to use (*insert name of controlled substance*).

(or)

(A)(2) by any means, (administered or furnished to another) (induced or caused another to use) (*insert name of controlled substance*) with purpose to cause (serious physical harm to that person) (that person to become drug dependent).

(or)

(A)(3) by any means, (administered or furnished to another) (induced or caused another to use) (*insert name of controlled substance*) and thereby caused (serious physical harm to that person) (that person to become drug dependent).

(or)

(A)(4) by any means,

(Use appropriate alternative)

(a) furnished or administered (*insert name of controlled substance*) to a person, who was at the time under the age of eighteen and who was at least two years younger than the defendant, when the defendant knew the age of that person or was reckless in that regard.

(or)

(b) (induced) (caused) a person, who was at the time under the age of eighteen and who was at least two years younger than the defendant, to use (*insert name of controlled substance*) when the defendant knew the age of that person or was reckless in that regard.

(or)

(c) (induced) (caused) a person, who was at the time under the age of eighteen and who was at least two years younger than the defendant, to commit (*insert name of controlled substance*) when the defendant knew the age of that person or was reckless in that regard.

(or)

(d) used a person, who was at the time under the age of eighteen, to perform any surveillance activity that was intended to prevent the (detection of [the defendant] [any other person] in) (arrest of [the defendant] [any other person] for) the commission of (*insert name of controlled substance*).

COMMENT

R.C. 2925.02(A)(4)(a) through (c) require the offender know the age of the

juvenile involved or be reckless in that regard. R.C. 2925.02(A)(4)(d) does not require the offender know the age of the juvenile involved or be reckless in that regard.

2. **KNOWINGLY.** OJI-CR 417.11; R.C. 2901.22(B).
3. **FORCE.** “Force” means any violence, compulsion, or constraint physically exerted by any means upon or against a person.

COMMENT

R.C. 2901.01.

4. **THREAT.** “Threat” includes direct and indirect threat.

COMMENT

Drawn from R.C. 2905.11(C).

5. **DECEPTION.** “Deception” means knowingly deceiving another or causing another to be deceived by any false or misleading representation or by any other conduct, act, or omission that creates, confirms, or continues a false impression in another.

COMMENT

Drawn from R.C. 2913.01.

6. **ADMINISTER.** “Administer” means the direct application of a drug to a person, whether by injection, inhalation, ingestion, or any other means.

COMMENT

Drawn from R.C. 3719.01.

7. **CAUSATION.** OJI-CR 417.23.
8. **INDUCED.** “Induced” means influenced or prevailed upon by persuasion or argument.
9. **FURNISHED.** “Furnished” means provided, supplied, or gave access to.
10. **PURPOSELY.** OJI-CR 417.01; R.C. 2901.22(A).
11. **SERIOUS PHYSICAL HARM TO PERSONS.** “Serious physical harm to persons” means

(Use appropriate alternative)

(A) any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment.

(or)

(B) any physical harm that carries a substantial risk of death.

(or)

(C) any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity.

(or)

(D) any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement.

(or)

(E) any physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

COMMENT

R.C. 2901.01.

12. **PHYSICAL HARM TO PERSONS.** "Physical harm to persons" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

COMMENT

R.C. 2901.01.

13. **SUBSTANTIAL RISK.** "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

COMMENT

R.C. 2901.01.

14. **DRUG DEPENDENT PERSON.** "Drug dependent person" means any person who, by reason of the use of (*insert name of drug of abuse*), is physically or psychologically or physically and psychologically dependent upon the use of such drug to the detriment of his/her health or welfare.

COMMENT

Drawn from R.C. 3719.011.

15. RECKLESS. OJI-CR 417.17; R.C. 2901.22(C).
16. FELONY DRUG ABUSE OFFENSE. R.C. 2925.01.

COMMENT

As distinguished from the question of prior conviction, if the issue involved is the inducing or causing another to commit a felony drug abuse offense or using a juvenile to prevent the detection of or arrest for a felony drug abuse offense in violation of R.C. 2925.02(A)(4)(c) or (d), the court must then give complete instructions describing every element of the relevant felony drug abuse offense including necessary definitions.

17. AFFIRMATIVE DEFENSE:

COMMENT

R.C. 2925.02(B) creates certain exceptions to the prohibitions of R.C. 2925.02(A)(1), (3), and (4). The Committee believes these are affirmative defenses under R.C. 2901.05(C)(2) or in the nature of affirmative defenses and must be treated as such. See *State v. Little*, 8th Dist. No. 57033 (March 14, 1991); *State v. Hassell*, 1st Dist. No. C-920530 (May 5, 1993).

- (A) GENERAL. OJI-CR 417.27.
- (B) PHYSICIAN ACTING BONA FIDE.

The defendant claims that at the time of the alleged offense, he/she was a physician acting in the course of the bona fide treatment of a patient. "Bona fide" means in or with good faith; honestly, openly, and sincerely; and without deceit or fraud. A physician who acts in the course of the bona fide treatment of a patient cannot be convicted of (*specify offense*).

COMMENT

Drawn from *State v. McCarthy*, 65 Ohio St.3d 589 (1992).

- (C) OTHER PERSONS.

The defendant claims that at the time of the alleged offense, he/she was a

(manufacturer) (wholesaler) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was in accordance with (*describe applicable law*).

COMMENT

R.C. 2925.02(B). The Committee believes that the “bona fide” defense applies only to physicians engaged in treatment.

For the definitions of “manufacturer,” “wholesaler,” “licensed health professional authorized to prescribe drugs,” and “pharmacist,” see R.C. 2925.01.

18. SURVEILLANCE ACTIVITY. “Surveillance activity” means to act as a lookout for or provide warning to a person(s) engaged in the commission of an offense.

19. ADDITIONAL FINDING:

IN THE VICINITY OF A SCHOOL. OJI-CR 425.25; R.C. 2925.01(P), R.C. 2925.02(C)(1), (2) and (3).

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a school.

If your verdict is not guilty, you will not decide this issue.

COMMENT

R.C. 2945.75 provides that when the presence of one or more additional elements enhances the degree of the offense, the additional element(s) must be contained in the affidavit, complaint, or indictment, or the affidavit, complaint, or indictment must state the higher degree of offense. The degree of many offenses proscribed by R.C. Chapter 2925 is determined by the identity of the controlled substance involved. Because the identity of the controlled substance is usually an element of the substantive offense, it is not an additional element and need not be the subject of a separate finding by the trier of fact. If the identity of the drug involved is not an element of a particular drug offense and the degree of the offense is determined by the identity of the drug involved, a separate finding by the trier of fact is necessary.

Either a separate finding on the verdict form will be needed on this issue or, in the alternative, a separate verdict form may be used for this finding. *See* OJI-CR 425.25.

20. SCHOOL. R.C. 2925.01.

21. SCHOOL PREMISES. R.C. 2925.01.

22. SCHOOL BUILDING. R.C. 2925.01.

23. MAJOR DRUG OFFENDER. R.C. 2929.01, R.C. 2925.02(E).

COMMENT

R.C. 2941.1410(A) provides that before a mandatory prison term may be imposed the charging document must contain a specification that the offender is a “major drug offender.” The status as a “major drug offender” is determined by the amount of the drug involved. The Committee believes that the jury makes the finding of fact that could support a determination of “major drug offender” and that the court determines the penalty. *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *State v. Hunter*, 123 Ohio St.3d 164, 2009-Ohio-4147; *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855.

24. CONCLUSION. OJI-CR 425.01.

25. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

26. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

27. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.03 Trafficking in drugs R.C. 2925.03 (offenses committed on and after 9/23/04) [Rev. 11/18/17]

1. The defendant is charged with (aggravated trafficking in drugs) (trafficking in [marihuana] [cocaine] [L.S.D.] [heroin] [hashish]). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant knowingly

(Use appropriate alternative[s])

(A)(1) sold or offered to sell (*insert name of controlled substance*);

(or)

(A)(2) (prepared for shipment) (shipped) (transported) (delivered) (prepared for distribution) (distributed) the (*insert name of controlled substance*), when the defendant

(Use appropriate alternative)

(a) intended to (sell) (resell) (*insert name of controlled substance*).

(or)

(b) (knew) (had reasonable cause to believe) that (*insert name of other person*) intended to (sell) (resell) (*insert name of controlled substance*).

(B) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that

(Use appropriate alternative[s])

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) *(specify other person)* whose conduct was not in compliance with *(describe applicable standards and/or procedures as specified by statute or regulation)*;

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the trial court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792, regarding R.C. 2925.03(B)(1)(3).

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. SOLD. "Sale" includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

COMMENT

Drawn from R.C. 3719.01.

4. **REASONABLE CAUSE TO BELIEVE.** When deciding whether the defendant had reasonable cause to believe that (*insert name of other person*) intended to (sell) (resell) (*insert name of controlled substance*), you must put yourself in the position of this defendant with his/her knowledge or lack of knowledge, and under the circumstances and conditions that surrounded him/her at that time. You must consider the conduct of the persons involved and decide whether their acts and words and all the surrounding circumstances would have caused a person of ordinary prudence and care to believe that (*insert name of other person*) intended to (sell) (resell) (*insert name of controlled substance*).

5. **INTEND (INTENT).** OJI-CV 429.05 § 3.

6. **DISTRIBUTE.** “Distribute” means to deal in, ship, transport, or deliver, but does not include administering or dispensing a drug.

COMMENT

R.C. 3719.01.

7. **OFFER.** “Offer” means to present for acceptance or rejection.

8. **ADDITIONAL FINDINGS:**

(A) **OFFENSES COMMITTED IN THE VICINITY OF A JUVENILE.** OJI-CR 425.25.

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a juvenile. If your verdict is not guilty, you will not decide this issue.

(B) **OFFENSE COMMITTED IN THE VICINITY OF A SCHOOL.** OJI-CR 425.25.

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a school regardless of whether the defendant knew the offense was being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

Drawn from R.C. 2925.01.

(C) **AMOUNT OF CONTROLLED SUBSTANCE.** OJI-CR 425.25; R.C. 2925.03(C)(1)(c)(f), (2)(c)–(e), (3)(c)–(g), (4)(c)–(g), (5)(c)–(g), (6)(c)–(g), and (7)(c)–(f).

COMMENT

R.C. 2925.03(C) establishes a sentencing scheme whereby the degree of the offense is determined by the amount of the controlled substance sold or offered for sale. The amount is expressed in terms of "bulk amount," grams, or unit doses depending on the identity of the controlled substance involved. In accordance with R.C. 2925.03(E) and R.C. 2945.75, if the amount of the controlled substance involved increases the degree of the offense, the jury (or the trial judge in a non-jury trial) must determine the amount of the controlled substance involved at the time of the offense and, if a guilty verdict is returned, shall return the findings as part of the verdict.

If your verdict is guilty, you will separately decide beyond a reasonable doubt the amount of (*insert name of controlled substance and amount in grams, unit doses, or bulk amount*) involved at the time of the offense. If your verdict is not guilty, you will not decide this issue.

(D) PRIOR CONVICTION OF TRAFFICKING IN MARIHUANA. OJI-CR 425.15; R.C. 2925.03(C)(3)(g).

(E) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.03(C)(1)(f), (4)(g), 5(g), and (6)(g).

COMMENT

R.C. 2941.1410(A) provides that before a mandatory prison term may be imposed the charging document must contain a specification that the offender is a "major drug offender." The status as a "major drug offender" is determined by the amount of the drug involved. The Committee believes that the jury makes the finding of fact that could support a determination of "major drug offender" and the court determines the penalty. *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *State v. Hunter*, 123 Ohio St.3d 164, 2009-Ohio-4147; *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855.

(F) DEFINITIONS.

(1) IN THE VICINITY OF A JUVENILE. "In the vicinity of a juvenile" means the offense was committed within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense).

COMMENT

Drawn from R.C. 2925.01.

(2) IN THE VICINITY OF A SCHOOL. “In the vicinity of a school” means the offense was committed on the school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

Drawn from R.C. 2925.01.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

12. FORFEITURE OF PROPERTY. OJI-CR 525.42.

**CR 525.04 Illegal manufacture of drugs or cultivation of marihuana R.C.
2925.04 (offenses committed on and after 9/23/04 but before 5/17/
06) [Rev. 11/18/17]**

1. The defendant is charged with illegal (manufacture of drugs) (cultivation of marihuana). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio,

(A) the defendant knowingly (cultivated marihuana) (manufactured or otherwise engaged in any part of the production of [insert name of controlled substance]).

(B) ADDITIONAL ELEMENT(S):

PHYSICIANS, PHARMACISTS, AND OTHER PERSONS.

(Use appropriate alternative[s])

(1) The defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (specify other person) whose conduct was not in compliance with (describe applicable standards and/or procedures as specified by statute or regulation);

COMMENT

If there is a factual issue as to whether a defendant was a manufacturer, licensed

health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) The drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of the anabolic steroid;

(or)

(3) The defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. CULTIVATE. "Cultivate" includes planting, watering, fertilizing, or tilling.

COMMENT

R.C. 2925.01.

4. MANUFACTURE. R.C. 2925.01.
5. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) PERSONAL USE (CULTIVATION OF MARIHUANA CHARGED AS A FIFTH DEGREE FELONY ONLY). R.C. 2925.04(F).

The defendant claims that the marihuana that gave rise to the charge of cultivating marihuana in an amount equal to or exceeding 200 grams but less than 1,000 grams was (in such amount) (in such form) (prepared, compounded, or mixed with substances that are not controlled substances in such a manner) (possessed or cultivated in any other circumstances) as to indicate that the substance was solely for personal use.

6. ADDITIONAL FINDINGS:

(A) AMOUNT OF MARIHUANA. OJI-CR 425.25; R.C. 2925.04(C)(4)(b)–(f).

(B) OFFENSE COMMITTED IN THE VICINITY OF A JUVENILE. OJI-CR 425.25, OJI-CR 525.03 § 9; R.C. 2925.04.

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a juvenile. If your verdict is not guilty, you will not decide this issue.

(C) OFFENSE COMMITTED IN THE VICINITY OF A SCHOOL. OJI-CR 425.25.

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a school, regardless of whether the defendant knew the offense was being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

Drawn from R.C. 2925.01.

(D) METHAMPHETAMINE: OFFENSE COMMITTED ON PUBLIC PREMISES. OJI-CR 425.25; R.C. 2925.01, R.C. 2925.04(C)(2).

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the offense was committed on public premises. If your verdict is not guilty, you will not decide this issue.

COMMENT

This additional finding applies only if the drug involved in the underlying offense is methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine. R.C. 2925.04(B)(2).

The Committee believes *State v. Johnson*, 128 Ohio St.3d 107, 2010-Ohio-6301, applies to this additional finding and therefore no culpable mental state needs to be proved as none is provided for in the statute with regard to this additional finding.

(E) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.04(E).

COMMENT

R.C. 2941.1410(A) provides that before a mandatory prison term may be

imposed the charging document must contain a specification that the offender is a "major drug offender." The status as a "major drug offender" is determined by the amount of the drug involved. The Committee believes that the jury makes the finding of fact that could support a determination of "major drug offender" and that the court determines the penalty. *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *State v. Hunter*, 123 Ohio St.3d 164, 2009-Ohio-4147; *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855.

(F) DEFINITIONS.

(1) IN THE VICINITY OF A JUVENILE. "In the vicinity of a juvenile" means the offense was committed within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew that [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense).

COMMENT

R.C. 2925.01.

(2) IN THE VICINITY OF A SCHOOL. "In the vicinity of a school" means the offense was committed on the school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

R.C. 2925.01.

(3) PUBLIC PREMISES. "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

COMMENT

R.C. 2925.01.

7. CONCLUSION. OJI-CR 425.01.

8. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

9. CONCLUSION WITH AFFIRMATIVE DEFENSE OF PERSONAL USE ONLY.
R.C. 2925.04(F).

COMMENT

R.C. 2925.04(F) creates a specific affirmative defense of “personal use” that is applicable if the defendant is charged with illegal cultivation of marihuana as a fifth degree felony. If the defendant proves the affirmative defense, however, it is not a complete bar to conviction and the defendant may be convicted of a misdemeanor violation of illegal cultivation of marihuana. The trial judge, if faced with this situation, should instruct the jury as follows in lieu of the instruction found at OJI-CR 425.03.

(Use appropriate alternative[s])

(A) If you find the state failed to prove beyond a reasonable doubt all the essential elements of illegal cultivation of marihuana, your verdict must be not guilty;

(or)

(B) If you find the state proved beyond a reasonable doubt all the essential elements of illegal cultivation of marihuana, you will then consider the additional finding concerning the amount of marihuana involved. If you find the state failed to prove beyond a reasonable doubt that the amount of marihuana involved was *(insert the amount of marihuana alleged as an additional finding)*, or you are unable to agree, you shall find the defendant guilty and specify on the additional finding verdict form the amount of marihuana that you agree on beyond a reasonable doubt;

(or)

(C) If you find the state proved beyond a reasonable doubt all the essential elements of illegal cultivation of marihuana, including that the amount of marihuana was *(insert the amount of marihuana alleged as an additional finding)*, you will then separately decide whether the marihuana involved was possessed solely for personal use.

(D) **SAMPLE VERDICT FORMS.**

COMMENT

The following verdict forms are to be used only in cases of fifth degree felony illegal cultivation of marihuana charges when the defense of personal use is in issue.

(1) **NOT GUILTY VERDICT FORM.**

We, the jury, find the defendant not guilty.

(2) **GUILTY VERDICT FORM.**

We, the jury, find the defendant guilty.

(3) ADDITIONAL FINDING.

(a) We, the jury, further find that the amount of marihuana (was equal to or more) (was less) than (*insert amount of marihuana alleged as an additional finding*).

(b) IF YOU FIND THAT THE AMOUNT OF MARIHUANA WAS EQUAL TO OR MORE THAN (*INSERT AMOUNT OF MARIHUANA ALLEGED AS AN ADDITIONAL FINDING*), THEN SEPARATELY DECIDE THE FOLLOWING:
In addition, we do further find that the marihuana (was) (was not) possessed solely for personal use.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

11. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.04 Illegal manufacture of drugs or cultivation of marihuana R.C.

2925.04 (offenses committed on and after 5/17/06) [Rev. 11/18/17]

1. The defendant is charged with illegal (manufacture of drugs) (cultivation of marihuana). Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio,

(A) the defendant knowingly (cultivated marihuana) (manufactured or otherwise engaged in any part of the production of [*insert name of controlled substance*]).

(B) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS.

The state must also prove beyond a reasonable doubt that

(*Use appropriate alternative[s]*)

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*);

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the trial court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the

defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of the anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. CULTIVATE. "Cultivate" includes planting, watering, fertilizing, or tilling.

COMMENT

R.C. 2925.01.

4. MANUFACTURE. R.C. 2925.01.
5. AFFIRMATIVE DEFENSE:
 - (A) GENERAL. OJI-CR 417.27.
 - (B) PERSONAL USE (CULTIVATION OF MARIHUANA CHARGED AS A FIFTH DEGREE FELONY ONLY). R.C. 2925.04(F).

The defendant claims that the marihuana that gave rise to the charge of cultivating marihuana in an amount equal to or exceeding 200 grams but less than 1,000 grams was (in such amount) (in such form) (prepared, compounded, or mixed with substances that are not controlled substances in such a manner) (possessed or cultivated in any other circumstances) as to indicate that the substance was solely for personal use.

6. ADDITIONAL FINDINGS:
 - (A) AMOUNT OF MARIHUANA. OJI-CR 425.25; R.C. 2925.04(C)(4)(b)–(f).
 - (B) OFFENSE COMMITTED IN THE VICINITY OF A JUVENILE. OJI-CR 425.25, OJI-CR 525.03 § 9; R.C. 2925.04.

If your verdict is guilty, you will separately decide beyond a reasonable doubt

whether the defendant committed the offense in the vicinity of a juvenile. If your verdict is not guilty, you will not decide this issue.

(C) OFFENSE COMMITTED IN THE VICINITY OF A SCHOOL. OJI-CR 425.25.

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a school, regardless of whether the defendant knew the offense was being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

Drawn from R.C. 2925.01.

(D) METHAMPHETAMINE: OFFENSE COMMITTED ON PUBLIC PREMISES. OJI-CR 425.25; R.C. 2925.01, R.C. 2925.04(C)(2).

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the offense was committed on public premises. If your verdict is not guilty, you will not decide this issue.

COMMENT

This additional finding applies only if the drug involved in the underlying offense is methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer, or salt of an isomer of methamphetamine. R.C. 2925.04(B)(2).

The Committee believes *State v. Johnson*, 128 Ohio St.3d 107, 2010-Ohio-6301, applies to this additional finding and therefore no culpable mental state needs to be proved as none is provided for in the statute with regard to this additional finding.

(E) METHAMPHETAMINE: PRIOR CONVICTION. R.C. 2925.04(C)(3).

(F) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.04(E).

COMMENT

R.C. 2941.1410(A) provides that before a mandatory prison term may be imposed the charging document must contain a specification that the offender is a "major drug offender." The status as a "major drug offender" is determined by the amount of the drug involved. The Committee believes that the jury makes the finding of fact that could support a determination of "major drug offender" and that the court determines the penalty. *Apprendi v. New Jersey*, 530 U.S. 466 (2000);

State v. Hunter, 123 Ohio St.3d 164, 2009-Ohio-4147; *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855.

(G) DEFINITIONS.

(1) IN THE VICINITY OF A JUVENILE. “In the vicinity of a juvenile” means the offense was committed within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew that [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense).

COMMENT

R.C. 2925.01.

(2) IN THE VICINITY OF A SCHOOL. “In the vicinity of a school” means the offense was committed on the school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

R.C. 2925.01.

(3) PUBLIC PREMISES. “Public premises” means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

COMMENT

R.C. 2925.01.

7. CONCLUSION. OJI-CR 425.01.

8. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

9. CONCLUSION WITH AFFIRMATIVE DEFENSE OF PERSONAL USE ONLY.
R.C. 2925.04(F).

COMMENT

R.C. 2925.04(F) creates a specific affirmative defense of “personal use” that is applicable if the defendant is charged with illegal cultivation of marijuana as a fifth

degree felony. If the defendant proves the affirmative defense, however, it is not a complete bar to conviction and the defendant may be convicted of a misdemeanor violation of illegal cultivation of marihuana. The trial judge, if faced with this situation, should instruct the jury as follows in lieu of the instruction found at OJI-CR 425.03.

(Use appropriate alternative[s])

(A) If you find the state failed to prove beyond a reasonable doubt all the essential elements of illegal cultivation of marihuana, your verdict must be not guilty;

(or)

(B) If you find the state proved beyond a reasonable doubt all the essential elements of illegal cultivation of marihuana, you will then consider the additional finding concerning the amount of marihuana involved. If you find the state failed to prove beyond a reasonable doubt that the amount of marihuana involved was *(insert the amount of marihuana alleged as an additional finding)*, or you are unable to agree, you shall find the defendant guilty and specify on the additional finding verdict form the amount of marihuana that you agree on beyond a reasonable doubt;

(or)

(C) If you find the state proved beyond a reasonable doubt all the essential elements of illegal cultivation of marihuana, including that the amount of marihuana was *(insert the amount of marihuana alleged as an additional finding)*, you will then separately decide whether the marihuana involved was possessed solely for personal use.

(D) SAMPLE VERDICT FORMS.

COMMENT

The following verdict forms are to be used only in cases of fifth degree felony illegal cultivation of marihuana charges when the defense of personal use is in issue.

(1) NOT GUILTY VERDICT FORM.

We, the jury, find the defendant not guilty.

(2) GUILTY VERDICT FORM.

We, the jury, find the defendant guilty.

(3) ADDITIONAL FINDING.

(a) We, the jury, further find that the amount of marihuana (was equal to or more) (was less) than *(insert amount of marihuana alleged as an additional finding)*.

(b) IF YOU FIND THAT THE AMOUNT OF MARIHUANA WAS EQUAL TO OR MORE THAN (*INSERT AMOUNT OF MARIHUANA ALLEGED AS AN ADDITIONAL FINDING*), THEN SEPARATELY DECIDE THE FOLLOWING:

In addition, we do further find that the marihuana (was) (was not) possessed solely for personal use.

10. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

11. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.041 Illegal assembly or possession of chemicals for the manufacture of drugs R.C. 2925.041 [Rev. 5-2-09]

1. The defendant is charged with illegal (assembly) (possession) of chemicals for the manufacture of drugs. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (assembled) (possessed) (*specify chemical[s]*) that may be used to manufacture (*specify Schedule I or II controlled substance*) with the intent to manufacture (*specify Schedule I or II controlled substance*).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. INTEND (INTENT). OJI-CR 429.05 § 3.

4. MANUFACTURE. R.C. 2925.01.

5. ASSEMBLE (OPTIONAL). It is not necessary for the state to prove that (*insert name of defendant*) assembled or possessed all chemicals necessary to manufacture (*insert name of Schedule I or II substance*). The assembly or possession of a single chemical that may be used in the manufacture of (*insert name of Schedule I or II substance*) is sufficient to violate this section if the defendant intended to manufacture (*insert name of Schedule I or II substance*).

COMMENT

Drawn from R.C. 2925.041(B).

6. POSSESS. “Possess” means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of “constructive possession,” see *State v. Mason* (July 5, 2001),

8th Dist. No. 78606.

7. CONCLUSION. OJI-CR 425.01.

8. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

9. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.05 Funding, aggravated funding of drug or marihuana trafficking
R.C. 2925.05 (offenses committed on and after 3/23/2000) [Rev. 1-5-13]

1. The defendant is charged with (aggravated) funding of (drug) (marihuana) trafficking. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant knowingly provided (money) (describe items of value) to (insert name of person receiving money or item of value) with the purpose that he/she used the (money) (describe item of value)

(Use appropriate alternative)

(A)(1) for the purpose of (cultivating marihuana) (manufacturing or otherwise engaging in any part of the production of [insert name of controlled substance]).

(or)

(A)(2) to obtain (insert name of controlled substance) for the purpose of (selling) (offering to sell) (insert name and amount of controlled substance specified in R.C. 2925.05[A][1]-[6]).

(B) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS.

The state must also prove beyond a reasonable doubt that

(Use appropriate alternative[s])

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (specify other person) whose conduct was not in compliance with (describe applicable standards and/or procedures as specified by statute or regulation);

COMMENT

If there is a factual issue as to whether the defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
4. SELLING. "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as a principal, proprietor, agent, servant, or employee.

COMMENT

R.C. 3719.01.

5. OFFER. "Offer" means to present for acceptance or rejection.
6. CULTIVATE. "Cultivate" includes planting, watering, fertilizing, or tilling.

COMMENT

R.C. 2925.01.

7. MANUFACTURE. R.C. 2925.01.
8. MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.05(E).

COMMENT

R.C. 2941.1410(A) provides that before an additional mandatory prison term

may be imposed, the indictment, count in the indictment, or information charging the offender must contain a specification that the offender is a "major drug offender." R.C. 2941.1410(B) provides that the court, not the jury, determines the issue of whether an offender is a "major drug offender." The status as a "major drug offender" is determined by the amount of the controlled substance involved.

Major drug offender penalty enhancements under R.C. 2929.14(D)(3)(b) are unconstitutional, however, because they require judicial findings of fact not proven to a jury or admitted by a defendant. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856. The Committee believes a penalty enhancement of an additional one to ten years may not be imposed upon a major drug offender because R.C. 2929.14(D)(3)(b) has been excised as unconstitutional by the Court in *Foster* and it was the only provision of the Revised Code that so provided.

9. CONCLUSION. OJI-CR 425.01.

10. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

12. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.06 Illegal administration or distribution of anabolic steroid R.C. 2925.06 [Rev. 5-2-09]

1. The defendant is charged with illegal (administration) (distribution) of anabolic steroids. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (administered) (prescribed) (dispensed for administration) to a human being (*insert name of anabolic steroid not approved by the United States Food and Drug Administration for administration to human beings*).

(A) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that

(*Use appropriate alternative[s]*)

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*).

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and

4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid.

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22.

3. ADMINISTER. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.

COMMENT

Drawn from R.C. 3719.01.

4. DISPENSE. "Dispense" means sell, leave with, give away, dispose of, or deliver.

COMMENT

R.C. 3719.01.

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

8. FORFEITURE OF PROPERTY. OJI-CR 525.42.

**CR 525.09(A) Trafficking in drugs that are not controlled substances R.C.
2925.09(A) (offenses committed on and after 7/22/98)**

COMMENT

From June 14, 1995, until July 1, 1996, the offenses contained in R.C. 2925.09 were contained in R.C. 2925.04.

1. The defendant is charged with trafficking in drugs that are not controlled substances. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant (administered) (dispensed) (distributed) (manufactured) (possessed) (sold) (used) a drug other than a controlled substance that was not approved by the United States Food and Drug Administration or by the United States Department of Agriculture.
2. You are instructed that (*insert name of substance*) is not a controlled substance.
3. ADMINISTER. "Administer" means the direct application of a drug to a person whether by injection, inhalation, ingestion, or any other means.

COMMENT

Drawn from R.C. 3719.01.

4. DISPENSE. "Dispense" means to sell, leave with, give away, dispose of, or deliver.

COMMENT

R.C. 3719.01.

5. MANUFACTURE. R.C. 2925.01(J).
6. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01(K).

For a discussion of "constructive possession" see *State v. Mason*, (July 5, 2001) 2001 Ohio App. LEXIS 3019.

7. SELL. "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee.

COMMENT

R.C. 3719.01.

8. DRUG. R.C. 4729.02(C).

9. ADDITIONAL FINDING:

PRIOR CONVICTION OF SAME OFFENSE. OJI-CR 425.15; R.C. 2925.09(C).

10. AFFIRMATIVE DEFENSE:

COMMENT

R.C. 2925.09(A)(1)–(4) creates certain exceptions to the prohibition of R.C. 2925.09(A). The Committee believes these are affirmative defenses under R.C. 2901.05(C)(2) or in the nature of affirmative defenses and must be treated as such. See *State v. Little* (March 14, 1991), 1991 Ohio App. LEXIS 1053; *State v. Hassell* (May 5, 1993), 1993 Ohio App. LEXIS 2364.

(A) GENERAL. OJI-CR 417.27.

(B) INVESTIGATIONAL USE - FDA. R.C. 2925.09(A)(1).

The defendant claims that the United States Food and Drug Administration has approved an application for investigational use for (*insert name of substance*) in accordance with the "Federal Food, Drug and Cosmetic Act" and (*insert name of substance*) was used only for the approved investigational use.

(C) INVESTIGATIONAL USE - USDA. R.C. 2925.09(A)(2).

The defendant claims that the United States Department of Agriculture has approved an application for investigational use for (*insert name of substance*) in accordance with the federal "Virus-Serum-Toxin Act" and (*insert name of substance*) was used only for the approved investigational use.

(D) LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS. R.C. 2925.09(A)(3).

The defendant claims that he/she is a licensed health professional authorized to prescribe drugs, other than a veterinarian, who (prescribed) (combined) two or more products for medicinal purposes.

(E) PHARMACIST USE. R.C. 2925.09(A)(4).

The defendant claims that he/she is a pharmacist who, pursuant to a prescription, (compounded) (dispensed) two or more drugs as a single product for medical

purposes.

11. LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS. R.C. 2925.01(C).

12. PHARMACIST. "Pharmacist" means a person registered with the State Board of Pharmacy as a compounder and dispenser of drugs.

COMMENT

Drawn from R.C. 3719.01.

13. COMPOUND. "Compound" means to combine with or mix.

14. CONCLUSION. OJI-CR 425.01.

15. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

16. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

17. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.09(B) Trafficking in dangerous drugs for animals R.C. 2925.09(B)
[Rev. 1-26-08]

1. The defendant is charged with trafficking in dangerous drugs for animals. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant (administered) (dispensed) (distributed) (manufactured) (possessed) (sold) (used) (*insert name of dangerous drug*) to or for (livestock) (any animal generally used for food or in the production of food).

2. ADMINISTER. "Administer" means the direct application of a drug to a person whether by injection, inhalation, ingestion, or any other means.

COMMENT

Drawn from R.C. 3719.01.

3. DISPENSE. "Dispense" means to sell, leave with, give away, dispose of, or deliver.

COMMENT

R.C. 3719.01.

4. DISTRIBUTE. "Distribute" means to deal in, ship, transport, or deliver but does

not include administering or dispensing a drug.

COMMENT

R.C. 3719.01.

5. MANUFACTURE. R.C. 2925.01.

6. POSSESS. “Possess” means having control over a thing or substance, but possession may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of “constructive possession” see *State v. Mason*, (July 5, 2001), 8th Dist. No. 78606.

7. SOLD. “Sale” includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee.

COMMENT

R.C. 3719.01.

8. PRESCRIPTION. R.C. 4729.01.

9. VETERINARIAN. “Veterinarian” means a person licensed to practice veterinary medicine.

COMMENT

Drawn from R.C. 4741.01.

10. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) PRESCRIPTION BY VETERINARIAN. R.C. 2925.09.

The defendant claims that (*insert name of dangerous drug*) was prescribed by a licensed veterinarian by prescription or other written order and was used in accordance with the veterinarian’s order or direction.

(C) LICENSED OR RETAIL DISTRIBUTOR. R.C. 2925.09.

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

14. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.11 Aggravated possession of drugs, possession of drugs, marihuana, cocaine, L.S.D., heroin, or hashish R.C. 2925.11 (offenses committed on and after 6/20/97) [Rev. 12/10/16]

COMMENT

R.C. 2925.11(B)(2)(b) provides a limited immunity from prosecution in certain violations of R.C. 2925.11 (minor drug possession up to and including a felony of the fifth degree). The Committee believes that disputes arising under R.C. 2925.11(B)(2)(b) are questions of law for the court.

1. The defendant is charged with (possession) (aggravated possession) of drugs. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*insert other jurisdiction*), Ohio, the defendant knowingly (obtained) (used) (possessed) (*insert name of controlled substance*).

(A) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that (*Use appropriate alternative[s]*)

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*);

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the

defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of "constructive possession," see *State v. Mason*, 8th Dist. No. 78606 (July 5, 2001).

4. AFFIRMATIVE DEFENSE:
- (A) GENERAL. OJI-CR 417.27.
- (B) OBTAINING A CONTROLLED SUBSTANCE PURSUANT TO A PRESCRIPTION. R.C. 2925.11(B)(4).

(Use appropriate alternative)

(1) OFFENSES COMMITTED ON AND AFTER 6/20/97 BUT BEFORE 3/23/00.

The defendant claims that he/she obtained the *(describe controlled substance)* pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs and that the *(describe controlled substance)* was in the original container in which it was dispensed to the defendant.

(or)

(2) OFFENSES COMMITTED ON AND AFTER 3/23/00.

The defendant claims that he/she obtained the (*describe controlled substance*) pursuant to a prescription issued by a licensed health care professional authorized to prescribe drugs.

COMMENT

The Committee believes that *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792, does not apply to obtaining a controlled substance pursuant to a prescription because it provides an excuse or justification based upon facts peculiarly within the knowledge of the accused.

(C) PERSONAL USE (POSSESSION OF A CONTROLLED SUBSTANCE CHARGED AS A FOURTH DEGREE FELONY ONLY). R.C. 2925.11(F). The defendant claims that the (*describe controlled substance*) that gave rise to the charge of (*describe offense charged including amount of controlled substance involved*) was (in such amount) (in such form) (prepared, compounded, or mixed with substances which are not controlled substances in such a manner) (possessed in any other circumstances) as to indicate that the substance was solely for personal use.

5. ADDITIONAL FINDINGS:

(A) AMOUNT OF CONTROLLED SUBSTANCE. AMOUNT OF CONTROLLED SUBSTANCE. OJI-CR 425.25, OJI-CR 525.03 § 6; R.C. 2925.11(C)(1)(b)-(e), (2)(b)-(d), (3)(b)-(f), (4)(b)-(f), (5)(b)-(f), (6)(b)-(f), and (7)(b)-(f).

(B) PRIOR CONVICTION OF A DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2925.11(C)(2)(a).

COMMENT

Under R.C. 2925.11(C)(2)(a), possession of a schedule III, IV, or V drug in less than the bulk amount is a misdemeanor of the third degree. If the offender has been previously convicted of a drug abuse offense, it is a misdemeanor of the second degree. S.B. 107, effective 3/23/00, amends R.C. 2925.11(C)(2)(b)-(d) to provide that possession of a schedule III, IV, or V drug in the bulk amount is now a felony.

(C) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.11(C)(1)(e), (4)(f), (5)(f), and (6)(f).

COMMENT

R.C. 2941.1410(A) provides that before an additional mandatory prison term may be imposed, the indictment, count in the indictment, or information charging the offender must contain a specification that the offender is a "major drug

offender.” R.C. 2941.1410(B) provides that the court, not the jury, determines the issue of whether an offender is a “major drug offender.” The status as a “major drug offender” is determined by the amount of the controlled substance involved.

Major drug offender penalty enhancements, however, under R.C. 2929.14(D)(3)(b) are unconstitutional because they require judicial findings of fact not proven to a jury or admitted by a defendant. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856. The Committee believes a penalty enhancement of an additional one to ten years may not be imposed upon a major drug offender because R.C. 2929.14(D)(3)(b) has been excised as unconstitutional by the Court in *Foster* and it was the only provision of the Revised Code that so provided.

6. CONCLUSION. OJI-CR 425.01.

7. CONCLUSION WITH AFFIRMATIVE DEFENSE OF PERSONAL USE ONLY. OJI-CR 425.03; R.C. 2925.11(E).

COMMENT

R.C. 2925.11(F) creates a specific affirmative defense of “personal use” that is applicable if the defendant is charged with drug abuse as a fourth degree felony. However, if the defendant proves the affirmative defense, it is not a complete bar to conviction and the defendant may be convicted of a fifth degree felony or a misdemeanor violation of drug abuse. The trial judge, if faced with this situation, must instruct the jury on the order of their deliberations. Because this affirmative defense is applicable only if the jury finds the additional finding of a specific amount of the controlled substance involved, the jury must be instructed that the order of their deliberations must be a determination of: (1) the basic elements of the charged offense; (2) the additional finding involving the amount of the controlled substance; and (3) the applicability of the affirmative defense of “personal use” if the additional finding is proved.

(Use appropriate alternative)

(A) If you find the state failed to prove beyond a reasonable doubt all the essential elements of drug abuse, your verdict must be not guilty.

(or)

(B) If you find the state proved beyond a reasonable doubt all the essential elements of *(describe offense charged)* you will then consider the additional finding concerning the amount of *(specify controlled substance)* involved. If you find the state failed to prove beyond a reasonable doubt that the amount of *(specify controlled substance)* involved was *(insert the amount of the controlled substance alleged as an additional finding)*, or are unable to agree, you must find the defendant guilty and specify on the additional finding verdict form the amount of the controlled substance that you agree on beyond a reasonable doubt.

(or)

(C) If you find the state proved beyond a reasonable doubt all the essential elements of (*describe offense charged*), including that the amount of (*specify controlled substance involved*) was (*insert the amount of the controlled substance alleged as an additional finding*), you will then separately decide whether the substance involved was possessed solely for “personal use.”

COMMENT

If the defendant is charged with drug abuse involving a schedule III, IV, or V controlled substance as a fourth degree felony and the jury finds the defendant proved the affirmative defense of “personal use,” then the defendant is guilty of a second or third degree misdemeanor violation of drug abuse in accordance with R.C. 2925.11(C)(2) depending upon whether the defendant has a prior conviction of a drug abuse offense. An additional verdict form may be required if the prosecution offers evidence of the defendant’s prior conviction of a drug abuse offense.

If the defendant is charged with drug abuse involving cocaine, L.S.D., or heroin as a fourth degree felony and the jury finds the defendant proved the affirmative defense of “personal use,” then the defendant is guilty of a fifth degree felony violation of drug abuse in accordance with R.C. 2925.11(C)(4), (5), or (6).

(D) SAMPLE VERDICT FORMS.

COMMENT

The following verdict forms are to be used only in cases of fourth degree felony drug abuse charges when the defense of personal use is in issue.

(1) NOT GUILTY VERDICT FORM.

We the jury find the defendant not guilty.

(2) GUILTY VERDICT FORM.

We the jury find the defendant not guilty.

(3) ADDITIONAL FINDING.

We, the jury, further find that the amount of the (*specify controlled substance*) was (equal to or more) (less) than (*insert amount of controlled substance alleged as an additional finding*).

(a) IF YOU FIND THAT THE AMOUNT OF CONTROLLED SUBSTANCE WAS EQUAL TO OR MORE THAN (*INSERT AMOUNT OF CONTROLLED SUBSTANCE ALLEGED*), THEN SEPARATELY DECIDE THE FOLLOWING:

In addition, we do further find that the (*insert name of controlled substance*) (was) (was not) possessed solely for personal use.

8. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR

425.11.

CR 525.11 Aggravated possession of drugs, possession of drugs, marihuana, cocaine, L.S.D., heroin, or hashish R.C. 2925.11 (offenses committed on and after 9/13/16) [Rev. 12/10/16]

COMMENT

R.C. 2925.11(B)(2)(b) provides a limited immunity from prosecution in certain violations of R.C. 2925.11 (minor drug possession up to and including a felony of the fifth degree). The Committee believes that disputes arising under R.C. 2925.11(B)(2)(b) are questions of law for the court.

1. The defendant is charged with (possession) (aggravated possession) of drugs. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*insert other jurisdiction*), Ohio, the defendant knowingly (obtained) (used) (possessed) (*insert name of controlled substance*).

(A) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that (*Use appropriate alternative[s]*)

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*);

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or).

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through

implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of "constructive possession," see *State v. Mason*, 8th Dist. No. 78606 (July 5, 2001).

4. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) OBTAINING A CONTROLLED SUBSTANCE PURSUANT TO A PRESCRIPTION. R.C. 2925.11(B)(4).

(Use appropriate alternative)

(1) OFFENSES COMMITTED ON AND AFTER 6/20/97 BUT BEFORE 3/23/00.

The defendant claims that he/she obtained the (*describe controlled substance*) pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs and that the (*describe controlled substance*) was in the original container in which it was dispensed to the defendant.

(or)

(2) OFFENSES COMMITTED ON AND AFTER 3/23/00.

The defendant claims that he/she obtained the (*describe controlled substance*) pursuant to a prescription issued by a licensed health care professional authorized to prescribe drugs.

COMMENT

The Committee believes that *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-

792, does not apply to obtaining a controlled substance pursuant to a prescription because it provides an excuse or justification based upon facts peculiarly within the knowledge of the accused.

(C) PERSONAL USE (POSSESSION OF A CONTROLLED SUBSTANCE CHARGED AS A FOURTH DEGREE FELONY ONLY). R.C. 2925.11(F). The defendant claims that the (*describe controlled substance*) that gave rise to the charge of (*describe offense charged including amount of controlled substance involved*) was (in such amount) (in such form) (prepared, compounded, or mixed with substances which are not controlled substances in such a manner) (possessed in any other circumstances) as to indicate that the substance was solely for personal use.

5. ADDITIONAL FINDINGS:

(A) AMOUNT OF CONTROLLED SUBSTANCE. AMOUNT OF CONTROLLED SUBSTANCE. OJI-CR 425.25, OJI-CR 525.03 § 6; R.C. 2925.11(C)(1)(b)-(e), (2)(b)-(d), (3)(b)-(f), (4)(b)-(f), (5)(b)-(f), (6)(b)-(f), and (7)(b)-(f).

(B) PRIOR CONVICTION OF A DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2925.11(C)(2)(a).

COMMENT

Under R.C. 2925.11(C)(2)(a), possession of a schedule III, IV, or V drug in less than the bulk amount is a misdemeanor of the third degree. If the offender has been previously convicted of a drug abuse offense, it is a misdemeanor of the second degree. S.B. 107, effective 3/23/00, amends R.C. 2925.11(C)(2)(b)-(d) to provide that possession of a schedule III, IV, or V drug in the bulk amount is now a felony.

(C) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.11(C)(1)(e), (4)(f), (5)(f), and (6)(f).

COMMENT

R.C. 2941.1410(A) provides that before an additional mandatory prison term may be imposed, the indictment, count in the indictment, or information charging the offender must contain a specification that the offender is a "major drug offender." R.C. 2941.1410(B) provides that the court, not the jury, determines the issue of whether an offender is a "major drug offender." The status as a "major drug offender" is determined by the amount of the controlled substance involved.

Major drug offender penalty enhancements, however, under R.C. 2929.14(D)(3)(b) are unconstitutional because they require judicial findings of fact not proven to a jury or admitted by a defendant. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856. The Committee believes a penalty enhancement of an additional one to ten years may not be imposed upon a major drug offender because R.C. 2929.14(D)(3)(b) has been excised as unconstitutional by the Court in *Foster* and it was the only

provision of the Revised Code that so provided.

6. CONCLUSION. OJI-CR 425.01.

7. CONCLUSION WITH AFFIRMATIVE DEFENSE OF PERSONAL USE ONLY.
OJI-CR 425.03; R.C. 2925.11(E).

COMMENT

R.C. 2925.11(F) creates a specific affirmative defense of “personal use” that is applicable if the defendant is charged with drug abuse as a fourth degree felony. However, if the defendant proves the affirmative defense, it is not a complete bar to conviction and the defendant may be convicted of a fifth degree felony or a misdemeanor violation of drug abuse. The trial judge, if faced with this situation, must instruct the jury on the order of their deliberations. Because this affirmative defense is applicable only if the jury finds the additional finding of a specific amount of the controlled substance involved, the jury must be instructed that the order of their deliberations must be a determination of: (1) the basic elements of the charged offense; (2) the additional finding involving the amount of the controlled substance; and (3) the applicability of the affirmative defense of “personal use” if the additional finding is proved.

(Use appropriate alternative)

(A) If you find the state failed to prove beyond a reasonable doubt all the essential elements of drug abuse, your verdict must be not guilty.

(or)

(B) If you find the state proved beyond a reasonable doubt all the essential elements of *(describe offense charged)* you will then consider the additional finding concerning the amount of *(specify controlled substance)* involved. If you find the state failed to prove beyond a reasonable doubt that the amount of *(specify controlled substance)* involved was *(insert the amount of the controlled substance alleged as an additional finding)*, or are unable to agree, you must find the defendant guilty and specify on the additional finding verdict form the amount of the controlled substance that you agree on beyond a reasonable doubt.

(or)

(C) If you find the state proved beyond a reasonable doubt all the essential elements of *(describe offense charged)*, including that the amount of *(specify controlled substance involved)* was *(insert the amount of the controlled substance alleged as an additional finding)*, you will then separately decide whether the substance involved was possessed solely for “personal use.”

COMMENT

If the defendant is charged with drug abuse involving a schedule III, IV, or V

controlled substance as a fourth degree felony and the jury finds the defendant proved the affirmative defense of "personal use," then the defendant is guilty of a second or third degree misdemeanor violation of drug abuse in accordance with R.C. 2925.11(C)(2) depending upon whether the defendant has a prior conviction of a drug abuse offense. An additional verdict form may be required if the prosecution offers evidence of the defendant's prior conviction of a drug abuse offense.

If the defendant is charged with drug abuse involving cocaine, L.S.D., or heroin as a fourth degree felony and the jury finds the defendant proved the affirmative defense of "personal use," then the defendant is guilty of a fifth degree felony violation of drug abuse in accordance with R.C. 2925.11(C)(4), (5), or (6).

(D) SAMPLE VERDICT FORMS.

COMMENT

The following verdict forms are to be used only in cases of fourth degree felony drug abuse charges when the defense of personal use is in issue.

(1) NOT GUILTY VERDICT FORM.

We the jury find the defendant not guilty.

(2) GUILTY VERDICT FORM.

We the jury find the defendant not guilty.

(3) ADDITIONAL FINDING.

We, the jury, further find that the amount of the (*specify controlled substance*) was (equal to or more) (less) than (*insert amount of controlled substance alleged as an additional finding*).

(a) IF YOU FIND THAT THE AMOUNT OF CONTROLLED SUBSTANCE WAS EQUAL TO OR MORE THAN (*INSERT AMOUNT OF CONTROLLED SUBSTANCE ALLEGED*), THEN SEPARATELY DECIDE THE FOLLOWING:

In addition, we do further find that the (*insert name of controlled substance*) (was) (was not) possessed solely for personal use.

8. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 525.12 Possessing drug abuse instruments R.C. 2925.12 (offenses committed on and after 7/1/96) [Rev. 5-2-09]

1. The defendant is charged with possessing drug abuse instruments. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly (made) (obtained) (possessed)

(used) a hypodermic or syringe, whose customary and primary purpose is for the (administration) (use) of *(insert name of drug[s] for which the hypodermic or syringe is customarily and primarily used)*,

(Use appropriate alternative)

(A)(1) to unlawfully (administer) (use) *(insert name of dangerous drug)*.

(or)

(A)(2) to prepare *(insert name of dangerous drug)* for unlawful (administration) (use).

COMMENT

The Committee believes the statutory language "other than marihuana" and "whether or not of crude or extemporized manufacture or assembly" is superfluous and should be omitted from the charge.

(B) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt

(Use appropriate alternative[s])

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) *(specify other person)* whose conduct was not in compliance with *(describe applicable standards and/or procedures as specified by statute or regulation)*.

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid.

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that

purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. **KNOWINGLY.** OJI-CR 417.11; R.C. 2901.22(B).

3. **POSSESS.** "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of "constructive possession" see *State v. Mason* (July 5, 2001), 8th Dist. No. 78606.

4. **ADMINISTER.** "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means to a person.

COMMENT

Drawn from R.C. 3719.01.

5. **HYPODERMIC OR SYRINGE.** "Hypodermic" means a hypodermic syringe or needle, or other instrument or device, for the subcutaneous (below the skin) injection of medication.

COMMENT

R.C. 3719.01.

6. **ADDITIONAL FINDING:**

(A) **PRIOR CONVICTION OF A DRUG ABUSE OFFENSE.** OJI-CR 425.15; R.C. 2925.12(C).

COMMENT

Under R.C. 2925.12(C) possession of a schedule III, IV, or V drug in the bulk

amount or less is a misdemeanor of the third degree. If the offender has been previously convicted of a drug abuse offense, it is a misdemeanor of the second degree.

(B) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, 2925.11(C)(1)(e), (4)(f), (5)(f), (6)(f).

COMMENT

R.C. 2941.1410(A) provides that before an additional mandatory prison term may be imposed, the indictment, count in the indictment, or information charging the offender must contain a specification that the offender is a "major drug offender." R.C. 2941.1410(B) provides that the court, not the jury, determines the issue of whether an offender is a "major drug offender." The status as a "major drug offender" is determined by the amount of the controlled substance involved.

Major drug offender penalty enhancements, however, under R.C. 2929.14(D)(3)(b) are unconstitutional because they require judicial findings of fact not proven to a jury or admitted by a defendant. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856. The Committee believes a penalty enhancement of an additional one to ten years may not be imposed upon a major drug offender because R.C. 2929.14(D)(3)(b) has been excised as unconstitutional by the Court in *Foster* and it was the only provision of the Revised Code that so provided.

7. CONCLUSION. OJI-CR 425.01.

8. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

9. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.13 Permitting drug abuse R.C. 2925.13 (offenses committed on and after 7/1/96)

1. The defendant is charged with permitting drug abuse. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A) was the (owner) (operator) (person in charge) of a (describe vehicle) and knowingly permitted the (describe vehicle) to be used for the commission of (insert name of felony drug abuse offense).

COMMENT

There is rarely a fact question concerning the definition of "vehicle." If such a case should arise, an instruction may be drawn from R.C. 4501.01.

(or)

(B) was the (owner) (lessee) (occupant) (person having custody, control or supervision) of (premises) (real estate including vacant land) and knowingly permitted the (premises) (real estate) to be used for the commission of (*insert name of felony drug abuse offense*) by another person.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. FELONY DRUG ABUSE OFFENSE. R.C. 2925.01(H).

COMMENT

The Court must give complete instructions, identifying the felony drug abuse offense by name and describing every element thereof with necessary definitions and explanations.

4. ADDITIONAL FINDING:

CERTAIN FELONY DRUG ABUSE OFFENSES COMMITTED IN THE VICINITY OF A SCHOOL OR A JUVENILE. OJI-CR 425.25, OJI-CR 525.02 §§ 18–20, 525.03 § 6; R.C. 2925.13(C)(3).

COMMENT

R.C. 2925.13(C)(3) provides that the degree of offense under this section is increased if (a) the felony drug abuse offense is a violation of R.C. 2925.02 or R.C. 2925.03 and (b) the offense is committed in the vicinity of a school or a juvenile. If the verdict form specifies that the felony drug abuse offense is a violation of R.C. 2925.02 or R.C. 2925.03, an additional finding to this effect is not necessary and may be improper. However, it will still be necessary to include an additional finding that the commission of the offense occurred in the vicinity of a school or a juvenile.

5. CONCLUSION. OJI-CR 425.01.
6. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.14(C) Drug paraphernalia offenses R.C. 2925.14(C) (offenses committed on and after 7/1/96) [Rev. 2/22/20]

1. The defendant is charged with (use) (possession with purpose to use) (sale) (possession with purpose to sell) (manufacturing with purpose to sell) (advertising with the purpose to promote the sale) of drug paraphernalia. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant

(Use appropriate alternative[s])

(C)(1) knowingly (used) (possessed with purpose to use) drug paraphernalia;

(or)

(C)(2) knowingly (sold) ([possessed] [manufactured] with purpose to sell) drug paraphernalia and the defendant knew or reasonably should have known that it would be used as drug paraphernalia;

(or)

(C)(3) placed an advertisement in a (newspaper) (magazine) (handbill) (*describe other publication*) that was published, printed, and (distributed) (circulated) primarily within this state, and the defendant knew that the purpose of the advertisement was to promote the illegal sale in Ohio of equipment, products, or material (intended) (designed for use) by the defendant as drug paraphernalia.

(D) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that

(Use appropriate alternative[s])

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*);

COMMENT

If there is a factual issue as to whether a defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the federal Food, Drug and Cosmetic Act.

COMMENT

See *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of “manufacturer,” “wholesaler,” “licensed health professional authorized to prescribe drugs,” and “pharmacist,” see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. SOLD. OJI-CR 525.03 § 3; R.C. 3719.01.
4. POSSESS. “Possess” means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of constructive possession, see *State v. Frye*, 3d Dist. Allen No. 1-17-30, 2018-Ohio-894.

5. MANUFACTURE. R.C. 2925.01.
6. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).
7. PUBLISH. “Publish” means to produce or present printed or other material.
8. DRUG PARAPHERNALIA. R.C. 2925.14.
9. ADDITIONAL FINDING:
 - (A) SELLING DRUG PARAPHERNALIA TO A JUVENILE. OJI-CR 425.25; R.C. 2925.14.

If your verdict is guilty, you will separately decide whether the state proved beyond a reasonable doubt that the defendant sold drug paraphernalia to a person under the age of eighteen. If your verdict is not guilty, you will not decide this issue.

COMMENT

The Committee believes that *State v. Johnson*, 128 Ohio St.3d 107, 2010-Ohio-6301, applies to this additional finding and therefore no culpable mental state needs to be proved as none is provided for in the statute with regard to this additional finding.

10. AFFIRMATIVE DEFENSE(S):

- (A) GENERAL. OJI-CR 417.27.
- (B) PERSONAL USE.

The defendant claims that he/she (used) (possessed with purpose to use) the drug paraphernalia and that the drug paraphernalia was (equipment) (a product) (*describe other material*) that was (used by him/her) (intended by him/her for use)(designed for

use) in (storing) (containing) (concealing) (injecting) (ingesting) (inhaling) (*describe other method of introduction into the human body*) marihuana.

COMMENT

Drawn from R.C. 2925.14.

R.C. 2925.14 creates an exception to the prohibition contained in this section. The Committee believes that this is an affirmative defense under R.C. 2901.05(C)(2) or in the nature of an affirmative defense and must be treated as such. *See State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792; *State v. Hassell*, 1st Dist. Hamilton No. C-920530 (May 5, 1993); *State v. Little*, 8th Dist. Cuyahoga No. 57033 (Mar. 14, 1991).

(C) REGISTERED MEDICAL MARIHUANA PATIENT.

The defendant claims that he/she was a patient registered under Ohio law who obtained medical marihuana from a licensed retail dispensary and possessed (drug paraphernalia) (accessories) specified in rules adopted for medical marihuana use.

COMMENT

Drawn from R.C. 3796.22.

R.C. 3796.22 provides that a registered patient shall not be subject to arrest or criminal prosecution for possession of drug paraphernalia in accordance with medical marijuana laws. The Committee believes that this is an affirmative defense under R.C. 2901.05(C)(2) or in the nature of an affirmative defense and must be treated as such. *See State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792; *State v. Hassell*, 1st Dist. Hamilton No. C-920530 (May 5, 1993); *State v. Little*, 8th Dist. Cuyahoga No. 57033 (Mar. 14, 1991).

(D) REGISTERED CAREGIVER. R.C. 3796.23.

The defendant claims that he/she was a registered caregiver who obtained medical marihuana from a licensed retail dispensary and possessed (drug paraphernalia) (accessories) specified in rules adopted for medical marihuana use.

COMMENT

R.C. 3796.23.

R.C. 3796.23 provides that a registered caregiver shall not be subject to arrest or criminal prosecution for possession of drug paraphernalia in accordance with medical marihuana laws. The Committee believes that this is an affirmative defense under R.C. 2901.05(C)(2) or in the nature of an affirmative defense and must be treated as such. *See State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792; *State v. Hassell*, 1st Dist. Hamilton No. C-920530 (May 5, 1993); *State v. Little*, 8th Dist.

Cuyahoga No. 57033 (Mar. 14, 1991).

(E) DEFINITIONS.

(1) MARIHUANA. R.C. 3719.01.

(2) MEDICAL MARIHUANA. "Medical marihuana" means marihuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose.

COMMENT

R.C. 3796.01.

(3) CULTIVATE. "Cultivate" includes planting, watering, fertilizing, or tilling.

COMMENT

R.C. 2925.01.

11. CONCLUSION. OJI-CR 425.01.

12. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

13. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09; OJI-CR 425.11.

CR 525.22 Deception to obtain a dangerous drug R.C. 2925.22 (offenses committed on and after 7/1/96)

COMMENT

A violation of this section is either a fourth or fifth degree felony depending upon the identity of the dangerous drug. R.C. 2925.22(B). *See also* Comment OJI-CR 525.02 § 19.

1. The defendant is charged with deception to obtain a dangerous drug. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant by deception

(Use appropriate alternative[s])

(A)(1) procured (the administration of) (a prescription for) (the dispensing of) (*insert name of dangerous drug*).

(or)

(A)(2) possessed an uncompleted preprinted prescription blank used for writing a

prescription for (*insert name of dangerous drug*).

2. DECEPTION. R.C. 2913.01(A).

3. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

4. ADMINISTRATION. "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion, or any other means, to a person or an animal.

COMMENT

R.C. 3719.01.

5. PRESCRIPTION. R.C. 3719.01.

6. DISPENSE. "Dispense" means sell, leave with, give away, dispose of, or deliver.

COMMENT

R.C. 3719.01.

7. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01(K).

For a discussion of "constructive possession" see *State v. Mason*, (July 5, 2001) 2001 Ohio App. LEXIS 3019.

8. CONCLUSION. OJI-CR 425.01.

9. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

10. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.23 Illegal processing of drug documents (offenses committed on and after 7/22/98 but before 3/22/19) [Rev. 1/29/22]

1. The defendant is charged with illegal processing of drug documents. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative[s])

(A) knowingly made a false statement in a(n) (prescription) (order) (report) (record).

COMMENT

The prescription, order, report or record must be one required by R.C. Chapters 3719 or 4729.

(or)

(B) (intentionally [made] [uttered] [sold]) (knowingly possessed) a false or forged (prescription) (uncompleted preprinted prescription blank used for writing a prescription) (official written order) (license for a terminal distributor of dangerous drugs) (registration certificate for a wholesale distributor of dangerous drugs).

COMMENT

The license for a terminal distributor and the registration certificate for a wholesale distributor must be required by R.C. 4729.60.

(or)

(C) with purpose to deprive the owner of (*insert applicable drug document[s]*) (without the consent of the owner or person authorized to give consent) (beyond the scope of the express or implied consent of the owner or person authorized to give consent) (by deception) (by threat), knowingly (obtained) (exerted control over) a/n (prescription) (uncompleted preprinted prescription blank used for writing a prescription) (official written order) (blank official written order) ([license] [blank license] for a terminal distributor of dangerous drugs) ([registration certificate] [blank registration certificate] for a wholesale distributor of dangerous drugs).

COMMENT

The license for a terminal distributor and the registration certificate for a wholesale distributor must be required by R.C. 4729.60.

(or)

(D) knowingly (made) (affixed) a false or forged label to a (package) (receptacle) containing (*insert name of dangerous drug*).

(E) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS.

COMMENT

R.C. 2925.23(E) creates certain exceptions to the prohibitions to R.C. 2925.23(A)

and (D). Pursuant to *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792, these exceptions create additional elements the state must prove.

The state must also prove beyond a reasonable doubt that the defendant, at the time of the offense, was a/an (licensed health care professionals) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*).

COMMENT

If there is a factual issue as to whether defendant was a licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and 4729.01.

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. PRESCRIPTION. R.C. 3719.01.
4. INTENTIONALLY. "Intentionally" means purposely.
5. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
6. UTTER. "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

COMMENT

R.C. 2913.01.

7. SALE. "Sale" includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

COMMENT

R.C. 3719.01.

8. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of “constructive possession,” see *State v. Mason* (July 5, 2001), 8th Dist. No. 78606.

9. **FORGE.** “Forge” means to fabricate or create, in whole or in part and by any means, any false writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

COMMENT

Drawn from R.C. 2913.01.

10. **TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS.** R.C. 4729.02(Q), 4729.54, and 4729.55.

11. **WHOLESALE DISTRIBUTOR OF DANGEROUS DRUGS.** R.C. 4729.02(O), 4729.52, and 4729.53.

12. **ADDITIONAL FINDING:** *See suggested verdict form.*

(A) **IDENTITY OF THE DRUG INVOLVED.** OJI-CR 425.25; R.C. 2925.23(F).

COMMENT

To determine the applicable degree of offense, the jury must return a finding identifying the controlled substance. The Court can then determine the applicable Schedule by referring to R.C. 3719.41. A separate finding must be made by the jury. In some cases this matter may be resolved by stipulation. The following is a suggested verdict form:

“We the jury, find that the drug involved in this case is. . .”

If applicable, either a separate verdict form must be submitted on this issue, or in the alternative, a separate finding must be made on the same verdict form submitted to the jury.

13. **CONCLUSION.** OJI-CR 425.01.

14. **CONCLUSION WITH AFFIRMATIVE DEFENSE.** OJI-CR 425.03; R.C. 2925.23(E).

15. **FORFEITURE OF PROPERTY.** OJI-CR 525.42.

CR 525.23 Illegal processing of drug documents R.C. 2925.23 (offenses committed on and after 3/22/19) [Rev. 1/29/22]

1. The defendant is charged with illegal processing of drug documents. Before you can

find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative[s])

(A) knowingly made a false statement in a/an (prescription) (order) (report) (record);

COMMENT

The prescription, order, report, or record must be one required by R.C. Chapters 3719 or 4729. If there is a factual issue about this, the trial judge may need to craft an appropriate instruction.

(or)

(B) (intentionally [made] [uttered] [sold]) (knowingly possessed) a false or forged (prescription) (uncompleted preprinted prescription blank used for writing a prescription) (official written order) (license for a/an [terminal distributor of dangerous drugs] [manufacturer of dangerous drugs] [outsourcing facility] [third-party logistics provider] [repackager of dangerous drugs] [wholesale distributor of dangerous drugs]);

(or)

(C) with purpose to deprive the owner of a/an (prescription) (uncompleted preprinted prescription blank used for writing a prescription) (official written order) (blank official written order) ([license] [blank license] for a terminal distributor of dangerous drugs) ([license][blank license] for [a manufacturer of dangerous drugs] [outsourcing facility] [third-party logistics provider] [repackager of dangerous drugs] [a wholesale distributor of dangerous drugs]) knowingly obtained or exerted control over that drug document (without the consent of the owner or person authorized to give consent) (beyond the scope of the express or implied consent of the owner or person authorized to give consent) (by deception) (by threat) (by intimidation).

(or)

(D) knowingly (made) (affixed) a false or forged label to a (package) (receptacle) containing *(insert name of dangerous drug)*.

(E) ADDITIONAL ELEMENT(S) FOR LICENSED HEALTH PROFESSIONALS AUTHORIZED TO PRESCRIBE DRUGS, PHARMACISTS, OWNERS OF PHARMACIES, AND OTHER PERSONS. On *(insert the date of the offense)*, the defendant was a (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) *(describe other person)*. The state must prove beyond a reasonable doubt that at the time of the offense the defendant's conduct was not in compliance with *(describe applicable standards and/or procedures as specified by statute or regulation)*.

COMMENT

R.C. 2925.23(E) creates certain exceptions to the prohibitions to R.C. 2925.23(A) and (D). These exceptions do not create affirmative defenses but instead are additional elements that the state must prove beyond a reasonable doubt. *See State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792.

The Committee believes that whether the defendant was a licensed health professional authorized to prescribe drugs, a pharmacist, an owner of one or more pharmacies, or another person described in R.C. 2925.23(E) is a legal issue for the trial judge to determine.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. PRESCRIPTION. R.C. 4729.01.
4. INTENTIONALLY. “Intentionally” means purposely.
5. PURPOSELY. OJI-CR 417.01; R.C. 2901.22(A).
6. UTTER. “Utter” means to issue, publish, transfer, use, put or send into circulation, deliver, or display.

COMMENT

R.C. 2913.01.

7. SALE. “Sale” includes delivery, barter, exchange, transfer, or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

COMMENT

R.C. 3719.01.

8. POSSESS. “Possess” means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01.

For a discussion of “constructive possession,” see *State v. Bollheimer*, 12th Dist. Warren No. CA2019-02-014, 2020-Ohio-60, and *State v. Crowell*, 8th Dist. Cuyahoga No. 108592, 2020-Ohio-923.

9. **FORGE.** “Forge” means to fabricate or create, in whole or in part and by any means, any false writing, or to make, execute, alter, complete, reproduce, or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

COMMENT

Drawn from R.C. 2913.01.

10. **TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS.** R.C. 4729.01.

11. **WHOLESALE DISTRIBUTOR OF DANGEROUS DRUGS.** “Wholesale distributor of dangerous drugs” or “wholesale distributor” means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of such a person authorized by the person to engage in the sale of dangerous drugs at wholesale.

COMMENT

R.C. 4729.01.

12. **MANUFACTURER OF DANGEROUS DRUGS.** “Manufacturer of dangerous drugs” or “manufacturer” means a person, other than a pharmacist or prescriber, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs.

COMMENT

R.C. 4729.01.

13. **OUTSOURCING FACILITY.** “Outsourcing facility” means a facility that is engaged in the compounding and sale of sterile drugs and is registered as an outsourcing facility with the United States food and drug administration.

COMMENT

R.C. 4729.01.

14. **THIRD-PARTY LOGISTICS PROVIDER.** R.C. 4729.01.

15. **REPACKAGER OF DANGEROUS DRUGS.** “Repackager of dangerous drugs” or “repackager” means a person that repacks and relabels dangerous drugs for sale or distribution.

COMMENT

R.C. 4729.01.

16. ADDITIONAL FINDING. OJI-CR 425.25.

(A) IDENTITY OF THE DRUG INVOLVED. R.C. 2925.23(F).

COMMENT

To determine the applicable degree of offense, the jury must return a finding identifying the controlled substance. The court can then determine the applicable schedule by referring to R.C. 3719.41. A separate finding must be made by the jury. If applicable, either a separate verdict form must be submitted on this issue, or in the alternative, a separate finding must be made on the same verdict form submitted to the jury.

17. CONCLUSION. OJI-CR 425.01.

18. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

19. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.24 Tampering with drugs R.C. 2925.24 [Rev. 5-2-09]

1. The defendant is charged with tampering with drugs. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant knowingly

(Use appropriate alternative)

(A)(1) (adulterated or altered [*specify dangerous drug*]) (substituted [*specify dangerous drug*] with [*specify other substance*]).

(or)

(A)(2) (adulterated or altered a [package] [receptacle] containing [*specify dangerous drug*]) (substituted a [package] [receptacle] containing [*specify dangerous drug*] with another [package] [receptacle]).

(B) ADDITIONAL ELEMENT(S): PRACTITIONERS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that the defendant, at the time of the offense, was a/an (manufacturer) (practitioner) (pharmacist) (owner of a pharmacy) (nurse) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*).

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, practitioner, pharmacist, or nurse, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and 4729.01.

See *State v. Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of “manufacturer,” “pharmacist,” and “nurse,” see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. ADULTERATE. R.C. 2925.01, 3715.63.

4. AFFIRMATIVE DEFENSE:

(A) GENERAL. OJI-CR 417.27.

(B) LAWFULLY PRESCRIBED DRUG. R.C. 2925.24(D).

The defendant claims that (*specify dangerous drug*) that he/she allegedly altered was lawfully prescribed for his/her personal use and that he/she did not (sell) (transfer) or intend to (sell) (transfer) (*specify dangerous drug*) to any other person.

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

7. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

8. FORFEITURE OF PROPERTY. OJI-CR 525.42.

CR 525.31 Abusing harmful intoxicants R.C. 2925.31 (offenses committed on and after 7/1/96)

1. The defendant is charged with abusing harmful intoxicants. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant, with purpose to (induce)(cause) intoxication or similar physiological effects, (obtained) (possessed) (used) a harmful intoxicant.

2. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

3. INTOXICATION. “Intoxication” means a person used a harmful intoxicant to such an extent that it adversely affected the person’s (mental processes) (conduct) (actions) (reactions) (movements) and deprived that person of the clearness of mind or control that the person would otherwise have possessed.

COMMENT

OJI-CR 421.09; Drawn from *State v. Steele* (1952), 95 Ohio App. 107, 52 O.O.

488, 117 N.E.2d 617 .

4. **PHYSIOLOGICAL EFFECT.** “Physiological effect” means any physical effect on the human body.

5. **POSSESS.** “Possess” means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01(K).

For a discussion of “constructive possession” see *State v. Mason*, (July 5, 2001) 2001 Ohio App. LEXIS 3019.

6. **HARMFUL INTOXICANT.** R.C. 2925.01(J).

7. **AFFIRMATIVE DEFENSE:**

(A) **GENERAL.** OJI-CR 417.27.

(B) **LAWFUL PURPOSE.** The defendant claims that he/she acted for a lawful (research) (clinical) (medical) (dental) (veterinary) purpose.

(C) **LAWFUL.** “Lawful” means not forbidden by law.

8. **ADDITIONAL FINDING.**

PRIOR CONVICTION OF A DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2925.01(H), R.C. 2925.31(B).

9. **CONCLUSION.** OJI-CR 425.01.

10. **CONCLUSION WITH AFFIRMATIVE DEFENSE.** OJI-CR 425.03.

CR 525.32 Trafficking in harmful intoxicants. R.C. 2925.32 (offenses committed on and after 1/1/97)

1. **DISPENSING HARMFUL INTOXICANTS.** R.C. 2925.32(A)(1). The defendant is charged with dispensing harmful intoxicants. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant knowingly (dispensed)(distributed) a harmful intoxicant, other than nitrous oxide, to (insert name of person), a person eighteen years of age or older, and (knew) (had reason to believe) that the harmful intoxicant was not to be used for lawful (research) (clinical) (medical) (dental) (veterinary) purposes but was to be used with purpose to (induce) (cause) intoxication or similar physiological effects.

2. **DISPENSING HARMFUL INTOXICANTS TO A JUVENILE.** R.C. 2925.32(A)(2). The defendant is charged with dispensing harmful intoxicants to a juvenile. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about

the _____ day of _____, _____, and in _____ County, Ohio, the defendant knowingly (dispensed) (distributed) a harmful intoxicant, other than nitrous oxide, to (*insert name of juvenile*), a person under eighteen years of age, and (knew) (had reason to believe) that the harmful intoxicant was not to be used for lawful (research) (clinical) (medical) (dental) (veterinary) purposes but was to be used with purpose to (induce) (cause) intoxication or similar physiological effects.

COMMENT

R.C. 2925.32(A)(2)(b) contains what appears to be an affirmative defense permitting the dispensing or distributing of gasoline or diesel fuel to a juvenile. In order to be entitled to this defense, the defendant must show that he neither knew nor had reason to believe that the product would be used in violation of R.C. 2925.31 (abusing harmful intoxicants). However, the defendant's knowledge or reason to believe that the juvenile would use the harmful intoxicants in violation of R.C. 2925.31 is an element of the offense of dispensing harmful intoxicants to a juvenile. Therefore the Committee believes that the affirmative defense in the statute is superfluous and has not included it in the instruction.

3. DISPENSING NITROUS OXIDE. R.C. 2925.32(B)(1). The defendant is charged with dispensing nitrous oxide. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant knowingly (dispensed) (distributed) nitrous oxide to (*insert name of person*), a person twenty-one years of age or older, and (knew) (had reason to believe) that the nitrous oxide was not to be used for lawful (research) (clinical) (medical) (dental) (veterinary) purposes but was to be used with purpose to (induce) (cause) intoxication or similar physiological effects.

4. DISPENSING NITROUS OXIDE TO A PERSON UNDER TWENTY-ONE YEARS OF AGE. R.C. 2925.32(B)(2). The defendant is charged with dispensing nitrous oxide to a person under twenty-one years of age. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, the defendant knowingly (dispensed) (distributed) nitrous oxide to (*insert name of person*), a person under twenty-one years of age, and the nitrous oxide was not used for (medical) (dental) (clinical) purposes.

5. SELLING DEVICES TO INHALE NITROUS OXIDE. R.C. 2925.32(B)(3). The defendant is charged with selling a device to inhale nitrous oxide. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, Ohio, at the time a cartridge of nitrous oxide was sold to (*insert name of purchaser of cartridge*) the defendant sold a device to (*insert name of purchaser of device*) that permitted (*insert name of purchaser of device*) to (inhale nitrous oxide from cartridges) (hold nitrous oxide from cartridges for purposes of inhalation), and (knew) (had reason to believe) that (*insert name of purchaser*) intended to abuse the nitrous oxide.

COMMENT

R.C. 2925.32(B)(3) does not contain an explicit element requiring that the defendant know or have reason to believe that the purchaser intended to abuse nitrous oxide. However, R.C. 2925.32(B)(3) contains a provision stating that the sale of a device to inhale nitrous oxide creates a rebuttable presumption that the seller had knowledge or reason to believe that the purchaser intended to abuse the nitrous oxide. The Committee believes that this provision indicates that the legislature intended that the seller's knowledge or reason to believe that the purchaser of the device intends to use it to abuse nitrous oxide to be an element of the offense.

6. DISPENSING NITROUS OXIDE WITHOUT PROPER DOCUMENTATION AND LABELING. R.C. 2925.32(B)(4). The defendant is charged with dispensing nitrous oxide without required documentation or labeling. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant (dispensed) (distributed) nitrous oxide in (a cartridge) (cartridges) and failed to

(Use appropriate alternative[s])

(A) record each transaction in which nitrous oxide was (dispensed) (distributed) on a separate card which was signed and dated by the purchaser and

(1) informed the purchaser that nitrous oxide cartridges are only for purposes of preparing food, that inhalation of nitrous oxide can have dangerous health effects, and that it is a violation of state law to distribute or dispense cartridges of nitrous oxide to any person under twenty-one years of age, punishable as a felony of the fifth degree; and

(2) was signed by the purchaser and provided the purchaser's complete residence address; and

(3) was maintained at the defendant's business address for not less than one year from the date of the transaction and made available during normal business hours for inspection and copying by officers and employees of the state board of pharmacy or of other law enforcement agencies of Ohio or the United States authorized to investigate violations of state or federal drug abuse laws.

COMMENT

The documentation and labeling requirements of R.C. 2925.32(F) do not take effect until July 1, 1999.

(or)

(B) label each cartridge of nitrous oxide (dispensed) (distributed) with a printed warning stating "Nitrous oxide cartridges are to be used only for purposes of preparing food. Nitrous oxide cartridges may not be sold to persons under age twenty-one. Do not inhale contents. Misuse can be dangerous to your health."

(or)

(C) mark the packaging containing the nitrous oxide cartridge(s) (dispensed) (distributed) with a label or device identifying the defendant and giving the defendant's business address.

7. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

8. DISPENSE. "Dispense" means to sell, leave with, give away, dispose of, or deliver.

COMMENT

R.C. 3719.01.

9. DISTRIBUTE. "Distribute" means to deal in, ship, transport, or deliver but does not include administering or dispensing a drug.

COMMENT

R.C. 3719.01.

10. HARMFUL INTOXICANT. R.C. 2925.01(I).

11. PURPOSE. OJI-CR 417.01; R.C. 2901.22(A).

12. INTOXICATION. OJI-CR 525.31 § 3.

13. PHYSIOLOGICAL EFFECT. "Physiological effect" means any physical effect on the functions of the human body.

14. KNOWLEDGE OF OR REASON TO BELIEVE INTENT TO ABUSE NITROUS OXIDE. In order to find the defendant guilty of selling devices to inhale nitrous oxide, you must find beyond a reasonable doubt that the defendant knew or had reason to believe that (*insert name of purchaser of device*) intended to abuse nitrous oxide. If you find beyond a reasonable doubt that a sale of the device occurred, then you may find that the defendant knew or had reason to believe that the purchaser intended to abuse the nitrous oxide. You may regard the sale of the device, if established beyond a reasonable doubt, as sufficient evidence that the defendant knew or had reason to believe that the purchaser intended to abuse the nitrous oxide; however, you are not required to do so. The fact that you may draw this conclusion does not shift the burden of proof from the prosecution to the defendant or place any burden whatsoever on the defendant to introduce any evidence. The prosecution must prove each and every

element of the charged offense beyond a reasonable doubt.

COMMENT

This instruction is only applicable to a violation of R.C. 2925.32(B)(3). See OJI-CR 417.33.

15. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B) PARENTAL ORDER. The defendant claims that at the time of the alleged offense, he/she had been provided with a written order from the (parent) (guardian) of (*insert name of juvenile*) to (dispense) (distribute) the harmful intoxicant to (*insert name of juvenile*).

(C) MAKING OR FABRICATING A PRODUCT OR STRUCTURE. The defendant claims that he/she was using the (*insert name of harmful intoxicant*) (nitrous oxide) to

(*Use appropriate alternative*)

(1) (make) (fabricate) (assemble) (transport) (construct) a (product) (structure) by (manual labor) (machinery) for sale or lease to another person.

(*or*)

(2) (mine) (refine) (process) natural deposits.

COMMENT

R.C. 2925.32(C) creates an exception to the prohibitions of R.C. 2925.32(A) and (B). The Committee believes this is an affirmative defense under R.C. 2901.05(C)(2) or in the nature of an affirmative defense and must be treated as such. See *State v. Little* (March 14, 1991), 1991 Ohio App. LEXIS 1053; *State v. Hassell* (May 5, 1993), 1993 Ohio App. LEXIS 2364.

(D) PROOF OF AGE. The defendant claims that (*insert name of person to whom harmful intoxicant or nitrous oxide was dispensed or distributed*) exhibited to the defendant, for purposes of establishing the individual's age, a(n)

(*Use appropriate alternative*)

(1) driver's (license) (permit) issued by the state;

(*or*)

(2) commercial driver's (license) (permit) issued by the state;

(*or*)

(3) identification card issued by the state to a person in place of a license to operate a motor vehicle;

(or)

(4) document that purports to be a(n) (driver's [license] [permit]) (commercial driver's [license] [permit]) (identification card issued by the state in place of a license to operate a motor vehicle); which appeared to be a genuine, unaltered document, identifying (*insert name of person to whom harmful intoxicant or nitrous oxide was dispensed or distributed*) and establishing his/her age, and the defendant did not have reasonable cause to believe that (*insert name of person to whom harmful intoxicant or nitrous oxide was distributed*) was under the age represented by the document.

16. ADDITIONAL FINDING.

PRIOR CONVICTION OF DRUG ABUSE OFFENSE. OJI-CR 425.15; R.C. 2925.01(G), 2925.32(D)(1).

17. CONCLUSION. OJI-CR 425.01.

18. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

19. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 525.33 Possessing nitrous oxide in a motor vehicle. R.C. 2925.33

1. The defendant is charged with possessing nitrous oxide in a motor vehicle. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ County, (Ohio) (*other jurisdiction*) the defendant did possess an open cartridge of nitrous oxide

(Use appropriate alternative[s])

(A) while operating or being a passenger (in) (on) a motor vehicle on a (street) (highway) (other [public] [private] property open to the public for purposes of vehicular traffic or parking).

(or)

(B) while being (in) (on) a stationary motor vehicle on a (street) (highway) (other [public] [private] property open to the public for purposes of vehicular traffic or parking).

2. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01(K).

For a discussion of “constructive possession” see *State v. Mason*, (July 5, 2001) 2001 Ohio App. LEXIS 3019.

3. MOTOR VEHICLE. R.C. 4511.01(B).
4. STREET OR HIGHWAY. R.C. 4511.01(BB).
5. AFFIRMATIVE DEFENSE:

COMMENT

R.C. 2925.33(B) creates certain exceptions to the prohibition contained in this section. The Committee believes these are affirmative defenses under R.C. 2901.05(C)(2) or in the nature of affirmative defenses and must be treated as such. See *State v. Little* (March 14, 1991), 1991 Ohio App. LEXIS 1053; *State v. Hassell* (May 5, 1993), 1993 Ohio App. LEXIS 2364.

- (A) GENERAL. OJI-CR 417.27.
- (B) PHYSICIAN ACTING BONA FIDE. OJI-CR 525.02 § 17(B).
- (C) OTHER PERSONS. OJI-CR 525.03 § 5(C) (on and after 7/1/96); R.C. 2925.03(B)(1).
6. CONCLUSION. OJI-CR 425.01.
7. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

CR 525.36 Illegal dispensing of drug samples R.C. 2925.36 (offenses committed on and after 7/1/96 but before 9/23/04) [Rev. 11/18/17]

1. The defendant is charged with illegal dispensing of drug samples. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly furnished a sample drug to (*insert name of person*).

(A) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that

(Use appropriate alternative[s])

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (*specify other person*) whose conduct was not in compliance with (*describe applicable standards and/or procedures as specified by statute or regulation*);

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed

health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. SAMPLE DRUG. R.C. 2925.01.

4. ADDITIONAL FINDINGS:

(A) IDENTITY OF DRUG INVOLVED. OJI-CR 525.23 § 13; R.C. 2925.36(C)(2) and (3).

COMMENT

See Comment at OJI-CR 525.23 § 13.

(B) OFFENSE COMMITTED ON SCHOOL PREMISES, IN A SCHOOL BUILDING, OR WITHIN ONE THOUSAND FEET OF THE BOUNDARY OF SCHOOL PREMISES. OJI-CR 525.02 § 19; R.C. 2925.36(C)(2)(a) and (3)(a).

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant recklessly committed the offense within 1000 feet of the boundary of a school premises.

COMMENT

State v. Lozier, 101 Ohio St.3d 161, 2004-Ohio-732.

(C) OFFENSE COMMITTED WITHIN ONE HUNDRED FEET OF A JUVENILE OR WITHIN THE VIEW OF A JUVENILE. OJI-CR 525.03 § 13; R.C. 2925.36(C)(2)(b) and (3)(b).

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense). If your verdict is not guilty, you will not decide this issue.

COMMENT

R.C. 2925.36(C)(3) provides that a violation of this section is a felony of the third degree if the drug involved is included in Schedule I or II other than marihuana and either (1) the offense is committed on school premises, in a school building, or within one thousand feet of the boundary of school premises, or (2) the offense is committed within one hundred feet of a juvenile or within the view of a juvenile. Therefore, the trial judge may have to instruct the jury to make additional findings as to the identity of the drug and the location of the offense and provide the appropriate forms.

(D) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, 2925.36(E).

COMMENT

R.C. 2941.1410(A) requires a ten-year term to be imposed upon a “major drug offender.” The finding that a defendant is a “major drug offender” is dependent upon the amount of the controlled substance as determined by the jury.

Major drug offender penalty enhancements under R.C. 2929.14(D)(3)(b) are unconstitutional because they require judicial findings of fact not proven to a jury or admitted by a defendant. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856. The Committee believes a penalty enhancement of an additional one to ten years may not be imposed upon a major drug offender because R.C. 2929.14(D)(3)(b) has been excised as unconstitutional by the Court in *Foster* and it was the only provision of the Revised Code that so provided.

(E) DEFINITIONS.

(1) IN THE VICINITY OF A JUVENILE. "In the vicinity of a juvenile" means the offense was committed within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense).

COMMENT

Drawn from R.C. 2925.01.

(2) IN THE VICINITY OF A SCHOOL. "In the vicinity of a school" means the offense was committed on the school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

R.C. 2925.01.

(3) SCHOOL PREMISES. R.C. 2925.01.

(4) SCHOOL BUILDING. R.C. 2925.01.

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

CR 525.36 Illegal dispensing of drug samples R.C. 2925.36 (offenses committed on and after 9/23/04) [Rev. 11/18/17]

1. The defendant is charged with illegal dispensing of drug samples. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant knowingly furnished a sample drug to (insert name of person).

(A) ADDITIONAL ELEMENT(S): PHYSICIANS, PHARMACISTS, AND OTHER PERSONS. The state must also prove beyond a reasonable doubt that

(Use appropriate alternative[s])

(1) the defendant, at the time of the offense, was a/an (manufacturer) (licensed health professional authorized to prescribe drugs) (pharmacist) (owner of a pharmacy) (specify other person) whose conduct was not in compliance with (describe applicable standards and/or procedures as specified by statute or regulation);

COMMENT

If there is a factual issue as to whether defendant was a manufacturer, licensed health professional authorized to prescribe drugs, or pharmacist, the court should give an instruction on the applicable definition contained in R.C. 3719.01 and R.C. 4729.01.

(or)

(2) the drug involved was an anabolic steroid and at the time of the offense the defendant was not conducting or participating in a research project approved by the United States Food and Drug Administration involving the use of an anabolic steroid;

(or)

(3) the defendant (sold) (offered for sale) (prescribed) (dispensed) (administered) an anabolic steroid that was expressly intended for administration through implants to livestock or other non-human species and that was approved for that purpose and the defendant's conduct was not in accordance with the Federal Food, Drug and Cosmetic Act.

COMMENT

See State v. Nucklos, 121 Ohio St.3d 332, 2009-Ohio-792.

For the definitions of "manufacturer," "wholesaler," "licensed health professional authorized to prescribe drugs," and "pharmacist," see R.C. 2925.01.

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. SAMPLE DRUG. R.C. 2925.01.

4. ADDITIONAL FINDINGS:

(A) IDENTITY OF DRUG INVOLVED. OJI-CR 525.23 § 13; R.C. 2925.36(C)(2) and (3).

COMMENT

See comment at OJI-CR 525.23 § 13.

(B) OFFENSE COMMITTED IN THE VICINITY OF A SCHOOL. OJI-CR 425.25. If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense in the vicinity of a school, regardless of whether the defendant knew the offense was being committed on school

premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

Drawn from R.C. 2925.01.

(C) OFFENSE COMMITTED WITHIN ONE HUNDRED FEET OF A JUVENILE OR WITHIN THE VIEW OF A JUVENILE. OJI-CR 525.03 § 13; R.C. 2925.36(C)(2)(b) and (3)(b).

If your verdict is guilty, you will separately decide beyond a reasonable doubt whether the defendant committed the offense within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew that [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense). If your verdict is not guilty, you will not decide this issue.

COMMENT

R.C. 2925.36(C)(3) provides that a violation of this section is a felony of the third degree if the drug involved is included in Schedule I or II other than marihuana and either (1) the offense is committed on school premises, in a school building, or within one thousand feet of the boundary of school premises, or (2) the offense is committed within one hundred feet of a juvenile or within the view of a juvenile. Therefore, the trial judge may have to instruct the jury to make additional findings as to the identity of the drug and the location of the offense and provide the appropriate forms.

(D) MAJOR DRUG OFFENDER. OJI-CR 525.02 § 23; R.C. 2929.01, R.C. 2925.36(E).

COMMENT

R.C. 2941.1410(A) requires a ten-year term to be imposed upon a "major drug offender." The finding that a defendant is a "major drug offender" is dependent upon the amount of the controlled substance as determined by the jury.

Major drug offender penalty enhancements under R.C. 2929.14(D)(3)(b) are unconstitutional because they require judicial findings of fact not proven to a jury or admitted by a defendant. *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856. The Committee believes a penalty enhancement of an additional one to ten years may not be imposed upon a major drug offender because R.C. 2929.14(D)(3)(b) has been excised as unconstitutional by the Court in *Foster* and it was the only provision of

the Revised Code that so provided.

(E) DEFINITIONS.

(1) IN THE VICINITY OF A JUVENILE. "In the vicinity of a juvenile" means the offense was committed within one hundred feet of or within the view of any person under the age of eighteen. You shall not consider whether (the defendant knew that [the person was under the age of eighteen] [a person under the age of eighteen was within one hundred feet of the commission of the offense] [a person under the age of eighteen was within view of the commission of the offense]) (a person under the age of eighteen actually viewed the commission of the offense).

COMMENT

Drawn from R.C. 2925.01.

(2) IN THE VICINITY OF A SCHOOL. "In the vicinity of a school" means the offense was committed on the school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

COMMENT

R.C. 2925.01.

(3) SCHOOL PREMISES. R.C. 2925.01.

(4) SCHOOL BUILDING. R.C. 2925.01.

5. CONCLUSION. OJI-CR 425.01.

6. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

**CR 525.37 Offenses involving counterfeit controlled substances R.C. 2925.37
(offenses committed on and after 7/1/96)**

1. The defendant is charged with an offense involving counterfeit controlled substances. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, _____, and in _____ (County) (other jurisdiction), Ohio, the defendant

(Use appropriate alternative)

(A) knowingly possessed counterfeit (*insert name of controlled substance*).

(or)

(B) knowingly (made) (sold) (offered to sell) (delivered) any substance that the defendant knew was counterfeit (*insert name of controlled substance*).

(or)

(C) (made) (possessed) (sold) (offered to sell) (delivered) a (punch) (die) (plate) (stone) (device) knowing, or having reason to know, that it would be used to (print) (reproduce) a (trademark) (trade name) (*describe other identifying mark*) upon counterfeit (*insert name of controlled substance*).

(or)

(D) (sold) (offered to sell) (gave) (delivered) counterfeit (*insert name of controlled substance*) to a person under the age of eighteen years.

(or)

(E) (directly) (indirectly) represented counterfeit (*insert name of controlled substance*) as a controlled substance by describing its effects as the (physical) (psychological) effects associated with the use of (*insert name of controlled substance*).

(or)

(F) (directly) (indirectly) falsely represented or advertised counterfeit (*insert name of controlled substance*) as (*insert name of controlled substance*).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).

3. POSSESS. "Possess" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

COMMENT

R.C. 2925.01(K).

For a discussion of "constructive possession" see *State v. Mason*, (July 5, 2001) 2001 Ohio App. LEXIS 3019.

4. COUNTERFEIT CONTROLLED SUBSTANCE. R.C. 2925.01(O).

5. SOLD. "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant, or employee.

COMMENT

R.C. 3719.01.

6. OFFER. "Offer" means to present for acceptance or rejection.

7. PSYCHOLOGICAL. "Psychological" means pertaining or having to do with the mind.

8. ADVERTISE. “Advertisement” means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

COMMENT

R.C. 3715.01(A)(12).

9. ADDITIONAL FINDINGS:

OFFENSE COMMITTED IN THE VICINITY OF A SCHOOL. OJI-CR 425.25, OJI-CR 525.02 § 19; R.C. 2925.01(P)–(S), 2925.37(H), (J), and (K).

OFFENSE COMMITTED IN THE VICINITY OF A JUVENILE. OJI-CR 425.25, OJI-CR 525.03 § 6; R.C. 2925.01(BB), 2925.37(H), (J), and (K).

10. CONCLUSION. OJI-CR 425.01.

11. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 525.42 Forfeiture of property in connection with felony drug abuse conviction

COMMENT

R.C. 2925.41, .42, .44, and .45 prescribe procedures for forfeiture of property that constitutes or is derived from the proceeds obtained from the commission of a felony drug abuse offense, or property that is used or intended to be used in any manner to commit or to facilitate the commission of a felony drug abuse offense. R.C. 2925.43 prescribes procedures for the civil forfeiture of such property under certain circumstances.

If a defendant is convicted by jury trial of a felony drug abuse offense, that jury determines the issue of forfeiture in a special proceeding pursuant to R.C. 2925.42(B)(3)(a), unless the defendant requests the judge to decide the issue pursuant to R.C. 2925.42(B)(3)(b).

1. GENERAL: PROPERTY DERIVED FROM PROCEEDS. The defendant has been found guilty of (*name of felony drug abuse offense*). The state claims that the defendant’s right, title and interest in (*describe property*) is subject to forfeiture to the State of Ohio. You will return a verdict of forfeiture if you find by the greater weight of the evidence that the (*describe property*)

(*Use appropriate alternative[s]*)

(A)(1)(a) (constituted) (was derived directly or indirectly from) any proceeds that the defendant obtained directly or indirectly from the commission of (*name of felony drug abuse offense*).

(or)

(C)(1)–(2) the right, title or interest in the (*describe property*) was acquired by the defendant during the period of the commission of (*name of felony drug abuse offense*), or within a reasonable time thereafter, and there is no likely source for the defendant's right, title or interest in the (*describe property*) other than the proceeds obtained from the commission of (*name of felony drug abuse offense*).

COMMENT

R.C. 2925.42(C) provides that (C)(1)–(2) above constitutes a rebuttable presumption. The Committee believes that this presumption is a method of proof by circumstantial evidence that the property involved constituted or was derived from the proceeds of the commission of the felony drug abuse offense. R.C. 2925.42(A)(1)(a).

2. **GENERAL: PROPERTY USED IN THE COMMISSION.** The defendant has been found guilty of (*name of felony drug abuse offense*). The state claims that the defendant's right, title and interest in (*describe property*) is subject to forfeiture to the State of Ohio. You will return a verdict of forfeiture if you find by the greater weight of the evidence that the (*describe property*) ([was used] [was intended to be used]) in any manner to commit, or to (facilitate) (aid in) the commission of (*name of felony drug abuse offense*).

3. **PROPERTY.** R.C. 2925.41(B).

4. **PREPONDERANCE OF THE EVIDENCE.** OJI-CR 417.29.

COMMENT

R.C. 2925.42 provides that the same jury in the felony drug abuse offense shall decide on forfeiture but does not specify the number of jurors who must agree on the verdict of forfeiture.

5. **SAMPLE VERDICT FORM.**

"We, the jury, find that the (*describe property*) (*) _____ subject to forfeiture to the State of Ohio."

(*) Insert in ink: "is" or "is not."

CR 525.55 Unlawful or improper purchase of pseudoephedrine or ephedrine products R.C. 2925.55 (offenses committed on and after 3/20/13)
[Rev. 2/8/14]

1. The defendant is charged with unlawful purchase of a (pseudoephedrine) (ephedrine) product. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant knowingly

(Use appropriate alternative)

(B) (purchased) (received) (acquired) an amount of (pseudoephedrine) (ephedrine) product with an amount of base (pseudoephedrine) (ephedrine) greater than (three and six tenths grams within a single day) (nine grams within a period of thirty consecutive days).

(or)

(E) failed to

(Use appropriate alternative[s])

(1) sign and print the defendant's name in the log book maintained by a (retailer) (terminal distributor of dangerous drugs);

(or)

(2) present a government-issued identification card to the (retailer) (terminal distributor of dangerous drugs) to verify the defendant's identity.

COMMENT

Drawn from R.C. 2925.55(E) and R.C. 3715.051(B).

2. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
3. PSEUDOEPHEDRINE PRODUCT. "Pseudoephedrine product" means a consumer product that contains pseudoephedrine.

COMMENT

R.C. 2925.55.

4. PSEUDOEPHEDRINE. "Pseudoephedrine" means any material, compound, mixture, or preparation that contains any quantity of pseudoephedrine, any of its salts, optical isomers, or salts of optical isomers.

COMMENT

R.C. 2925.55.

5. CONSUMER PRODUCT. "Consumer product" means any food or drink that is consumed or used by humans and any drug, including a drug that may be provided legally only pursuant to a prescription, that is intended to be consumed or used by humans.

COMMENT

R.C. 2925.55.

6. **EPHEDRINE PRODUCT.** "Ephedrine product" means a consumer product that contains ephedrine.

COMMENT

R.C. 2925.55.

7. **EPHEDRINE.** "Ephedrine" means any material, compound, mixture, or preparation that contains any quantity of ephedrine, any of its salts, optical isomers, or salts of optical isomers.

COMMENT

R.C. 2925.55.

8. **LOG BOOK.** "Log book" means a book of all purchases of pseudoephedrine products maintained in a tangible format, electronic format, or in both a tangible and electronic format that includes a space for a signature of a purchaser of a pseudoephedrine product.

COMMENT

Drawn from R.C. 3715.051.

9. **RETAILER.** "Retailer" means a place of business that offers consumer products for sale to the general public.

COMMENT

R.C. 2925.55.

10. **TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS.** R.C. 2925.55(A)(2), R.C. 4729.01.

11. **DANGEROUS DRUGS.** R.C. 2925.01, R.C. 4729.01.

12. **AFFIRMATIVE DEFENSES:**

(A) GENERAL. OJI-CR 417.27.

(B)(1) DISPENSED PURSUANT TO A VALID PRESCRIPTION. The defendant claims that the (pseudoephedrine) (ephedrine) product that he/she (purchased) (received) (acquired) was dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs. If you find by a preponderance of the evidence that the (pseudoephedrine) (ephedrine) product that the defendant (purchased) (received) (acquired) was dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs, then you must find the defendant not guilty.

COMMENT

Drawn from R.C. 2925.55(B)(1). If there is a factual dispute over the lawful conduct of the pharmacist or the licensed health professional, the court should instruct the jury regarding the applicable requirements of R.C. Chapter 3719, R.C. Chapter 4715, R.C. Chapter 4723, R.C. Chapter 4729, R.C. Chapter 4731, or R.C. Chapter 4741.

R.C. 2925.55(B)(1) provides an exception from criminal liability when the defendant obtained the pseudoephedrine product or ephedrine product under specified conditions. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant had a valid prescription is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(B)(2) EMPLOYEE OF RETAILER OR TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS. The defendant claims that he/she was an employee of a (retailer) (terminal distributor of dangerous drugs) and that he/she (received) (accepted) the (pseudoephedrine) (ephedrine) product from his/her employer in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product. If you find that the defendant was an employee of a (retailer) (terminal distributor of dangerous drugs), and that he/she (received) (accepted) the (pseudoephedrine) (ephedrine) product from his/her employer in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product, then you must find the defendant not guilty.

COMMENT

Drawn from R.C. 2925.55(B)(2).

(C) DEFINITIONS:

(1) PHARMACIST. "Pharmacist" means a person licensed under Ohio law to engage in the practice of pharmacy.

COMMENT

Drawn from R.C. 3715.05.

(2) PRACTICE OF PHARMACY. R.C. 4729.01.

(3) PRESCRIPTION. "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures for drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.

COMMENT

R.C. 4729.01.

(4) LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS. R.C. 4729.01.

(5) DRUG. R.C. 4729.01.

13. CONCLUSION. OJI-CR 425.01.

14. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

15. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 525.56 Unlawful sale of pseudoephedrine product R.C. 2925.56 (offenses committed on and after 5/17/06 but before 3/21/13) [Rev. 2/8/14]

1. The defendant is charged with unlawful sale of pseudoephedrine product. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (*other jurisdiction*), Ohio, the defendant was a

(Use appropriate alternative)

(A) (retailer) (terminal distributor) (employee of [a retailer] [terminal distributor]) of dangerous drugs and knowingly (sold) (offered to sell) (held for sale) (delivered) (provided) more than nine grams of pseudoephedrine product to an individual within a period of 30 consecutive days;

(or)

(B) (retailer) (terminal distributor) (employee of [a retailer] [terminal distributor]) of dangerous drugs and knowingly (sold) (offered to sell) (held for sale) (delivered) (provided) a pseudoephedrine product to an individual who is under 18 years of age;

(or)

(C) (retailer) (terminal distributor) of dangerous drugs who failed to

(Use appropriate alternative[s])

(1) segregate pseudoephedrine products from other merchandise so that no member of the public could (procure) (purchase) such products without the direct assistance of a/an (pharmacist) (authorized employee of the [retailer] [terminal distributor] of the dangerous drugs);

(or)

(2)(a) determine by examination of a valid proof of age that the (purchaser) (recipient) of pseudoephedrine products is at least 18 years of age;

(or)

(2)(b) make a reasonable attempt to ensure that no individual (purchased) (received) more than 9 grams of pseudoephedrine products within a period of 30 consecutive days;

(or)

(3) maintain a log book of pseudoephedrine product purchases as required by law.

COMMENT

“As required by law” means in accordance with R.C. 3715.05.

2. PSEUDOEPHEDRINE PRODUCTS. R.C. 3715.05.
3. CONSUMER PRODUCT. R.C. 3715.05.
4. RETAILER. R.C. 3715.05.
5. TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS. R.C. 4729.01.
6. DANGEROUS DRUGS. R.C. 4729.01.
7. PHARMACIST. “PHARMACIST” means a person licensed under Ohio law to engage in the practice of pharmacy.

COMMENT

Drawn from R.C. 3715.05. “Under Ohio law” refers to R.C. Chapter 4729.

8. PRACTICE OF PHARMACY. R.C. 4729.01.
9. PRESCRIPTION. R.C. 4729.01.
10. LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS. R.C. 4729.01.
11. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22 (B).

12. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B) DISPENSED BY A PHARMACIST PURSUANT TO A VALID PRESCRIPTION. The defendant claims that he/she was a pharmacist and dispensed the pseudoephedrine product pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and he/she and the licensed health professional authorized to prescribe drugs acted in accordance with Ohio law.

COMMENT

Drawn from R.C. 2925.56(A)(2).

This affirmative defense applies only to a violation of R.C. 2925.56(A)(1).

“In accordance with Ohio law” means in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, and 4741.

(C) RECEIVED OR ACCEPTED IN A SEALED CONTAINER. The defendant claims that he/she was a (retailer) (terminal distributor of dangerous drugs) (employee of [retailer] [terminal distributor of dangerous drugs]) and that he/she provided more than nine grams of a pseudoephedrine product within a period of 30 consecutive days to an employee in a sealed container in connection with (manufacturing) (warehousing) (placement) (stocking) (bagging) (loading) (unloading) of the product.

COMMENT

Drawn from R.C. 2925.56(A)(2).

This affirmative defense applies only to a violation of R.C. 2925.56(A)(1).

(D) DISPENSED BY A PHARMACIST/LICENSED HEALTH PROFESSIONAL PURSUANT TO OHIO LAW. The defendant claims that he/she was a (licensed health professional authorized to prescribe drugs) (pharmacist) who (dispensed) (sold) (provided) a pseudoephedrine product to an individual under 18 years of age and that his/her conduct was in accordance with Ohio law.

COMMENT

Drawn from R.C. 2925.56(B)(2)(a).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

“In accordance with Ohio law” means in accordance with R.C. Chapter 3719, 4715, 4723, 4729, 4731, and 4741.

(E) PROVIDED BY A PARENT/GUARDIAN. The defendant claims that he/she

was a (parent) (guardian) of the individual to whom he/she provided the pseudoephedrine product.

COMMENT

Drawn from R.C. 2925.56(B)(2)(b).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

(F) **AUTHORIZED BY A PARENT/GUARDIAN.** The defendant claims that he/she was authorized by a (parent) (guardian) of the individual to whom the pseudoephedrine product was (dispensed) (sold) (provided).

COMMENT

Drawn from R.C. 2925.56(B)(2)(c).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

(G) **PROVIDED IN A SEALED CONTAINER.** The defendant claims that he/she was a (retailer) (terminal distributor of dangerous drugs) (employee of a [retailer] [terminal distributor of dangerous drugs]) and that he/she provided the pseudoephedrine product in a sealed container in connection with the (manufacturing) (warehousing) (placement) (stocking) (bagging) (loading) (unloading) of the product.

COMMENT

Drawn from R.C. 2925.56(B)(2)(d).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

(H) **PROVIDED PURSUANT TO AGE IDENTIFICATION CARD/REASONABLE RELIANCE.** The defendant claims that he/she (sold) (gave away) (distributed) a pseudoephedrine product to a card holder under all of the following conditions:

- (1) The card holder attempting to (purchase) (receive) a pseudoephedrine product presented a driver's or commercial driver's license or an identification card;
- (2) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid; and
- (3) The pseudoephedrine product was (sold) (given away) (distributed) to the card holder in reasonable reliance by the defendant upon the identification presented and the completed transaction scan.

In deciding whether the defendant proved his/her affirmative defense that he/she

reasonably relied upon the identification presented by the (purchaser) (recipient), you shall consider any written policy that was adopted and implemented by the seller and intended to prevent the sale of pseudoephedrine products to underage individuals. You shall also consider that reasonable reliance on the identification and the completed transaction scan may have required the defendant to exercise reasonable diligence to determine the age of the (purchaser) (recipient) and whether the description and picture appearing on the (driver's or commercial driver's license) (identification card) presented by the card holder was that of the card holder.

The use of a transaction scan device does not excuse the defendant from exercising reasonable diligence in making these determinations.

COMMENT

Drawn from R.C. 2925.58.

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

13. CONCLUSION. OJI-CR 425.01.

14. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

15. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

CR 525.56 Unlawful or improper sale of a pseudoephedrine or ephedrine product R.C. 2925.56 (offenses committed on and after 3/20/13)
[Rev. 2/8/14]

1. The defendant is charged with the (unlawful) (improper) sale of a (pseudoephedrine) (ephedrine) product. Before you can find the defendant guilty, you must find beyond a reasonable doubt that on or about the _____ day of _____, 20_____, and in _____ (County) (other jurisdiction), Ohio, the defendant was a

(Use appropriate alternative)

(A) (retailer) (terminal distributor of dangerous drugs) (employee of a [retailer] [terminal distributor of dangerous drugs]) and knowingly (sold) (offered to sell) (held for sale) (delivered) (provided) an amount of (pseudoephedrine) (ephedrine) product with an amount of base (pseudoephedrine) (ephedrine) to any individual greater than (three and six tenths grams within a single day) (nine grams within a period of thirty consecutive days).

(or)

(B) (retailer) (terminal distributor of dangerous drugs) (employee of a [retailer] [terminal distributor of dangerous drugs]) and (sold) (offered to sell) (held for sale) (delivered) (provided) a (pseudoephedrine) (ephedrine) product (to) (for) an individual who is under 18 years of age.

(or)

(C)(1) (retailer) (terminal distributor of dangerous drugs) who failed to maintain a log book of all purchases of (pseudoephedrine) (ephedrine) products without a valid prescription by

(Use appropriate alternative[s])

(a) requiring each individual who purchased a (pseudoephedrine) (ephedrine) product without a valid prescription to sign an entry in the log book;

(or)

(b) determining whether the name signed in the entry in the log book corresponded with the name on a government-issued identification card;

(or)

(c) retaining the log book in a tangible format, in an electronic format, or in both formats (for a minimum of one year after the date of the last purchase recorded in the log book) (as required by federal law);

(or)

(d) (including in the log book) (posting in a conspicuous location) the following required statement: *(insert language from R.C. 3715.051(A)(4))*;

COMMENT

If the statement is included in a log book, the trial judge may have to instruct on the requirements of R.C. 3715.051(D).

(or)

(C)(2) (retailer) (terminal distributor of dangerous drugs) who was unable to complete the required information submission due to (experiencing [mechanical] [electronic] failure of the equipment used to complete the information submission) (the temporary inability of the [retailer] [terminal distributor of dangerous drugs] to obtain internet service) and failed to do both of the following:

(a) maintain a written or electronic record of

(i) the purchaser's name and address;

(ii) the name and quantity of the product purchased;

(iii) the date and time of the purchase;

(iv) the type of government-issued identification provided by the purchaser at the time of the purchase, including the identification number and the name of the agency that issued the identification; and

(b) complete the information submission as soon as practicable after (the [mechanical] [electronic] failure has been rectified) (internet service has been restored).

2. PSEUDOEPHEDRINE PRODUCT. R.C. 2925.55.
3. EPHEDRINE PRODUCT. R.C. 2925.55.
4. CONSUMER PRODUCT. R.C. 3715.05.
5. RETAILER. R.C. 3715.05.
6. TERMINAL DISTRIBUTOR OF DANGEROUS DRUGS. R.C. 4729.01.
7. DANGEROUS DRUGS. R.C. 4729.01.
8. PHARMACIST. "PHARMACIST" means a person licensed under Ohio law to engage in the practice of pharmacy.

COMMENT

Drawn from R.C. 3715.05. "Under Ohio law" refers to R.C. 4729.01.

9. PRACTICE OF PHARMACY. R.C. 4729.01.
10. PRESCRIPTION. R.C. 4729.01.
11. LICENSED HEALTH PROFESSIONAL AUTHORIZED TO PRESCRIBE DRUGS. R.C. 4729.01.
12. KNOWINGLY. OJI-CR 417.11; R.C. 2901.22(B).
13. AFFIRMATIVE DEFENSES:

(A) GENERAL. OJI-CR 417.27.

(B)(1) DISPENSED BY A PHARMACIST PURSUANT TO A VALID PRESCRIPTION. The defendant claims that he/she was a pharmacist and dispensed the (pseudoephedrine) (ephedrine) product pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs and that he/she and the licensed health professional authorized to prescribe drugs acted in accordance with Ohio law.

COMMENT

Drawn from R.C. 2925.56(A)(2).

This affirmative defense applies only to a violation of R.C. 2925.56(A)(1).

"In accordance with Ohio law" means in accordance with R.C. Chapter 3719, R.C. Chapter 4715, R.C. Chapter 4723, R.C. Chapter 4729, R.C. Chapter 4731, and R.C. Chapter 4741.

R.C. 2925.56(A)(2)(a) provides an exception from criminal liability when the quantity of the pseudoephedrine product or ephedrine product was dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional who was authorized to prescribe drugs. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant dispensed the product pursuant

to a valid prescription issued by a licensed health professional who was authorized to prescribe drugs is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(C)(1) RECEIVED OR ACCEPTED IN A SEALED CONTAINER. The defendant claims he/she was a (retailer) (terminal distributor of dangerous drugs) (employee of [retailer] [terminal distributor of dangerous drugs]) and that he/she provided more than nine grams of a (pseudoephedrine) (ephedrine) product within a period of 30 consecutive days to an employee in a sealed container in connection with (manufacturing) (warehousing) (placement) (stocking) (bagging) (loading) (unloading) of the product.

COMMENT

Drawn from R.C. 2925.56(A)(2)(b)(i).

This affirmative defense applies only to a violation of R.C. 2925.56(A)(1).

R.C. 2925.56(A)(2)(b)(i) provides an exception from criminal liability when the defendant is an employee of the retailer or terminal distributor of dangerous drugs and he/she received or accepted the dangerous drugs from his/her employer in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant was an employee of the retailer or terminal distributor of dangerous drugs and he/she received or accepted the dangerous drugs from his/her employer in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(C)(2) STOP-SALE ALERT. The defendant claims a stop-sale alert was generated after he/she submitted the information to the national precursor log exchange.

COMMENT

Drawn from R.C. 2925.56(A)(2)(b)(ii).

This affirmative defense applies only to a violation of R.C. 2925.56(A)(1).

R.C. 2925.56(A)(2)(b)(ii) provides an exception from criminal liability when a stop-sale alert was generated after the defendant submitted the information to the national precursor log exchange. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant submitted the information to the national precursor log exchange before a stop-sale alert was generated is peculiarly within the knowledge of the defendant, on which the defendant can fairly be

required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(D) **DISPENSED BY A PHARMACIST / LICENSED HEALTH PROFESSIONAL PURSUANT TO OHIO LAW.** The defendant claims he/she was a (licensed health professional authorized to prescribe drugs) (pharmacist) who (dispensed) (sold) (provided) a (pseudoephedrine) (ephedrine) product to an individual under 18 years of age and that his/her conduct was in accordance with Ohio law.

COMMENT

Drawn from R.C. 2925.56(B)(2)(a).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

R.C. 2925.56(B)(2)(a) provides an exception from criminal liability when the defendant obtained the pseudoephedrine product or ephedrine product under specified conditions. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant was a licensed health care professional authorized to prescribe drugs or a pharmacist is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(E) **PROVIDED BY A PARENT / GUARDIAN.** The defendant claims that he/she was a (parent) (guardian) of the individual to whom he/she provided the (pseudoephedrine) (ephedrine) product.

COMMENT

Drawn from R.C. 2925.56(B)(2)(b).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

R.C. 2925.56(B)(2)(b) provides an exception from criminal liability when the defendant is a parent or guardian who provided a pseudoephedrine product or ephedrine product to an individual under 18 years of age. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant was a parent or guardian who provided a pseudoephedrine product or ephedrine product to an individual under 18 years of age is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(F) **AUTHORIZED BY A PARENT / GUARDIAN.** The defendant claims that he/she was authorized by a (parent) (guardian) of the individual to whom the (pseudoephedrine) (ephedrine) product was (dispensed) (sold) (provided).

COMMENT

Drawn from R.C. 2925.56(B)(2)(c).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

R.C. 2925.56(B)(2)(c) provides an exception from criminal liability when the defendant is a person who is authorized by a parent or guardian to dispense, sell, or provide a pseudoephedrine product or ephedrine product to an individual under 18 years of age. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant was a person authorized by a parent or guardian to dispense, sell, or provide a pseudoephedrine product or ephedrine product to an individual under 18 years of age is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(G) **PROVIDED IN A SEALED CONTAINER.** The defendant claims that he/she was a (retailer) (terminal distributor of dangerous drugs) (employee of a [retailer] [terminal distributor of dangerous drugs]) and that he/she provided the (pseudoephedrine) (ephedrine) product in a sealed container in connection with the (manufacturing) (warehousing) (placement) (stocking) (bagging) (loading) (unloading) of the product.

COMMENT

Drawn from R.C. 2925.56(B)(2)(d).

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

R.C. 2925.56(B)(2)(d) provides an exception from criminal liability when the defendant is a retailer or terminal distributor of dangerous drugs or an employee of either and who provided the pseudoephedrine or ephedrine product in a sealed container in connection with manufacturing, warehousing, placement, stocking, bagging, loading, or unloading of the product. The Committee believes that this exception is an affirmative defense. *See State v Nucklos*, 121 Ohio St.3d 332, 2009-Ohio-792. The Committee believes that whether the defendant provided the pseudoephedrine or ephedrine product in a sealed container is peculiarly within the knowledge of the defendant, on which the defendant can fairly be required to adduce supporting evidence. R.C. 2901.05(D)(1)(b).

(H) **PROVIDED PURSUANT TO AGE IDENTIFICATION CARD / REASON-ABLE RELIANCE.** The defendant claims that he/she (sold) (gave away) (distributed) a (pseudoephedrine) (ephedrine) product to a card holder under all of the following conditions:

(1) The card holder attempting to (purchase) (receive) a/an (pseudoephedrine) (ephedrine) product presented a driver's or commercial driver's license or an identification card;

(2) A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid; and

(3) The (pseudoephedrine) (ephedrine) product was (sold) (given away) (distributed) to the card holder in reasonable reliance by the defendant upon the identification presented and the completed transaction scan.

In deciding whether the defendant proved his/her affirmative defense that he/she reasonably relied upon the identification presented by the (purchaser) (recipient), you shall consider any written policy that was adopted and implemented by the seller and intended to prevent the sale of (pseudoephedrine) (ephedrine) products to underage individuals. You shall also consider that reasonable reliance on the identification and the completed transaction scan may have required the defendant to exercise reasonable diligence to determine the age of the (purchaser) (recipient) and whether the description and picture appearing on the (driver's or commercial driver's license) (identification card) presented by the card holder was that of the card holder. The use of a transaction scan device does not excuse the defendant from exercising reasonable diligence in making these determinations.

COMMENT

Drawn from R.C. 2925.58.

This affirmative defense applies only to a violation of R.C. 2925.56(B)(1).

(I) DEFINITIONS.

(1) STOP-SALE ALERT. R.C. 3715.05.

(2) NATIONAL PRECURSOR LOG EXCHANGE. R.C. 3715.05.

14. CONCLUSION. OJI-CR 425.01.

15. CONCLUSION WITH AFFIRMATIVE DEFENSE. OJI-CR 425.03.

16. CONCLUSION WITH LESSER INCLUDED OFFENSE. OJI-CR 425.09, OJI-CR 425.11.

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[References are to civil (CV) and criminal (CR) instruction numbers.]

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[References are to civil (CV) and criminal (CR) instruction numbers.]

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